

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.1159 of 2014

In the matter of an application under Section 19 of the
Administrative Tribunal Act, 1985.

.....

Ghanashyam Sarangi

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s.Manas Pati, S.Kar &
P.Das.

For Opp. Parties : Standing Counsel
Mr. N.K.Praharaj.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

संस्थानिक न्यायो

Date of Hearing: 27.04.2022 and Date of Order: 05.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. Ranjit Mohanty, learned counsel for the Petitioner and Mr. N.K. Praharaj, learned counsel for the State-Opposite Parties.
3. The Petitioner is aggrieved by the order of punishment passed against the Petitioner vide order dated 03.06.2013 under Annexure-18.

4. In the said order, the Petitioner was imposed with punishment of stoppage of two future increments with cumulative effect and the Petitioner was censured.

5. It is submitted by the learned counsel for the Petitioner that while continuing as a Training Officer, a proceeding was initiated against the Petitioner vide Memorandum dated 16.09.1999 under Annexure-2.

6. It is submitted that on receipt of the charge memo under Annexure-2, the Petitioner submitted his written statement of defence on 07.01.2000 under Annexure-3 and vide order dated 01.05.2000 under Annexure-4, the Disciplinary Authority appointed the Enquiry Officer as well as the Marshalling Officer to proceed with the enquiry.

7. It is further submitted that after submission of the enquiry report on 15.01.2002, when no further action was taken by the Disciplinary Authority to conclude the proceeding, the Petitioner approached the learned State Administrative Tribunal in O.A No.498 of 2004.

8. It is further submitted that learned Tribunal vide order dated 29.04.2004 under Annexure-7 disposed of the said O.A. with a direction on the Opposite Parties to dispose of the proceeding within a period of six months from the date of receipt of the order.

9. It is further submitted that on being communicated with the order passed by the learned Tribunal under Annexure-7, Opposite Party No.1 vide letter dated 10.11.2014 under Annexure-8 when directed the Enquiry Officer to record the finding on every charges after

recording further evidence, the said action of the Opposite Party No.1 was challenged by the Petitioner by filing O.A. No.133/2005.

10. It is submitted that learned Tribunal vide order dated 09.09.2005 under Annexure-9 set aside such direction of the Opposite Party No.1 for taking further evidence in the matter. In the said order, learned Tribunal also directed the Opposite Parties to see that the Disciplinary Authority is disposed of as early as possible.

11. It is submitted that in spite of such repeated directions of learned Tribunal when the proceeding was not finalized and the enquiry was again proceeded with by the Enquiry Officer, the Petitioner approached learned Tribunal in O.A. No.514 of 2008.

12. It is submitted that learned Tribunal when vide order dated 02.05.2008 formulated a point as to why the entire proceeding should not be declared as void, if it is not concluded within the further time of three months from today i.e. by 02.08.2008, the Opposite Party No.1 vide letter dated 07.05.2008 under Annexure-12 intimated that the proceeding will be concluded before 02.08.2008.

13. It is submitted that in view of such assurance given in Annexure-12, learned Tribunal vide order dated 09.05.2008 under Annexure-13 while disposing O.A. No.514 of 2008 held that the proceeding be concluded before 02.08.2008, failing which the entire proceeding will be declared to be void.

14. It is further submitted that in spite of such order passed by learned Tribunal on 09.05.2008 under Annexure-13 and without concluding the proceeding by 02.08.2008, when the Opposite Party No.1 proceeded with the proceeding and ultimately without considering the representation submitted by the Petitioner against the first show cause under Annexure-15 and against the second show cause under Annexure-17, the order of punishment was passed vide the impugned order on 03.06.2013 under Annexure-18, the Petitioner challenging such order filed the present writ petition.

15. It is submitted that in view of the clear order passed by learned Tribunal under Annexure-13, since the proceeding was not concluded by 02.08.2008 the same is void in the eye of law and the Opposite Party No.1 should not have proceeded with the same by imposing the order of punishment on 03.06.2013 under Annexure-8.

16. Mr. Mohanty, learned counsel for the Petitioner accordingly submitted that in view of such order passed by learned Tribunal under Annexure-13, no order of punishment could have been passed after 02.08.2008 and accordingly it is prayed that the impugned order dated 03.06.2013 under Annexure-18 is a nullity in the eye of law. As revealed from the case record, even though the notice of the writ petition was issued on 16.05.2014 with passing of an interim order by staying the operation of the order dated 03.06.2013, but in spite of several opportunities no counter was filed by the Opposite Parties. Not only that this Court vide order dated 22.03.2022 though directed the State counsel to obtain

instruction as to how the Disciplinary Authority passed the impugned order on 03.06.2013 under Annexure-18 on the face of the order passed by learned Tribunal under Annexure-13, no instruction was also provided in spite of further opportunities given to the learned State Counsel. When the matter was ultimately listed both this Court on 27.04.2022 Mr. Praharaj, learned counsel for the State expressed his helplessness in providing the required information as directed by this Court in its order dated 22.03.2022. Accordingly, the matter was taken up for final hearing.

17. Heard learned counsel for the Parties.

18. Perused the materials available on record. In view of the clear order passed by learned Tribunal under Annexure-13, basing on the assurance under Annexure-12 and order dated 02.05.2018, the proceeding as against the Petitioner having not been concluded by 02.08.2008, the same could not have been taken up by passing of the impugned order by the Opposite Party No.1 on 03.06.2013 under Annexure-18.

19. Therefore, this Court has got no hesitation in quashing the said order dated 03.06.2013 passed by Opposite Party No.1 under Annexure-18 and set aside the same accordingly. While setting aside the said order dated 03.06.2013, this Court directs the Opposite Parties to release all financial benefits as due and admissible in favour of the Petitioner within a period of three months from the date of receipt of this order.

20. With the aforesaid observations and directions, the WPC(OA) stands disposed of. There shall be no order as to costs.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 5th of May, 2022/Subrat

