

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.2962 of 2015

Sakaleswar Das

....

Petitioner

Mr. Ghanashyam Namtoar, Advocate

-versus-

State of Orissa & others

....

Opp.parties

Mr. L. Samantaray, AGA

CORAM:

JUSTICE M.S.SAHOO

ORDER

22.12.2022

Hybrid Mode

Order No.

2. 1. When the matter was last listed on 06.07.2022, none had appeared for the petitioner and the following order was passed:

“2. The writ petition has been registered before this Court on 21st December, 2021, after the original application was transferred from the learned Odisha Administrative Tribunal, Cuttack Bench, Cuttack upon its abolition.

3. On perusal of the available order sheets of the learned Tribunal, it is indicated that notices were issued on 07.01.2016 and the matter was never taken up/pursued thereafter. Counter on behalf of opposite party no.1 dated 03.06.2016 is on record.

4. None appears for the petitioner, when the matter is called.

5. Learned AGA referring to the averments made in the O.A./writ petition as well as the counter submits that the challenge was to the period of suspension and as stated in the counter dated 03.06.2016, the enquiry report in the departmental proceeding initiated on 19.02.2009 was already submitted and in all likelihood, the departmental proceeding would have been completed, therefore, no further cause of action would survive at present.

6. Since no one is appearing for the petitioner, having heard the learned AGA and to grant another opportunity to the petitioner, list on 4th August, 2022.”

2. It is submitted by the learned counsel for the petitioner that in view of Rule-77 of the Orissa Service Code, the petitioner should have granted the increment during subsistence of the departmental proceeding and the period of suspension.

3. It is submitted by the learned Additional Government Advocate relying on the instructions received in his office from the Government of Odisha, Food Supplies and Consumer Welfare Department letter no.11239 dated 25.07.2022, which is also kept on record that paragraphs-5 & 6 held as follows :

“.... 5. That, the Disciplinary Proceeding had already been finalized vide FS & CW Department office order No.8495 dated 23.04.2016 with the imposition of the following punishments on the petitioner :

- i. He is censured.*
- ii. Withholding of one increment without cumulative effect.*
- iii. The period of suspension is treated as leave due as admissible.*

A copy of office order no.8495 dated 23.04.2016 of the F.S. & C.W. Department is annexed herewith as Annexure-A/ 1.

6. That, meanwhile his period of suspension has also been regularized vide FS & CW department office order no.10799 dated 07.07.2020.

A copy of Office Order No.10799 dated 07.07.2020 of F.S. & C.W. Department is annexed herewith as Annexure-B/ 1”

4. In response learned counsel for the petitioner fairly submits that after the disciplinary proceeding has been

finalized by imposition of the penalty of censured withholding one increment without cumulative effect, the period of suspension having been treated as leave due and admissible which has also been regularized by the order of the Government dated 07.07.2020, nothing would survive for adjudication as far as the present writ petition is concerned.

Accordingly, the writ petition is disposed of.

(M.S.Sahoo)
Judge



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