

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 28821 of 2022

Damodar Das

....

Petitioner

Mr. L.P. Dwivedy, Advocate

-versus-

Union of India and others

....

Opposite Parties

Mr. P.K. Parhi, DSGI

CORAM:

JUSTICE A.K.MOHAPATRA

ORDER

09.11.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. Heard Mr. L.P. Dwivedy, learned counsel appearing for the Petitioner and Mr. P.K. Parhi, learned Deputy Solicitor General of India along with Ms. Kabita Sahu, learned counsel appearing for the Union of India.
3. The present writ petition has been filed by the Petitioner with the following prayers:

“Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon’ble Court may graciously be pleased to:

- (i) *quash the Order dated 11.10.2022 as at Annexure-4 passed by Opp. Party No.4 and thereby direct the Opp. Parties to revoke the Order of suspension of the Petitioner within a stipulated period as may be prescribed by this Hon’ble Court;*

(ii) *pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice."*

4. It is submitted by the learned counsel for the Petitioner that while the Petitioner was working as a Constable at Palasa under Khordha Division, he was placed under suspension vide order dated 02.09.2022 passed by the Opposite Party No.4. After the Petitioner was placed under suspension, he had approached before the Opposite Party No.4 by filing representation on 29.09.2022 under Annexure-3 for revocation of the suspension order. However, the Opposite Party No.4 has issued a communication to the Petitioner stating therein that revocation from suspension shall be considered after completion of Departmental Enquiry. It is submitted by the learned counsel for the Petitioner that there is no bar in law to consider revocation of suspension at any stage of the proceeding.

5. Mr. P.K. Parhi, learned Deputy Solicitor General of India appearing for the Union of India submits that since the proceeding is continuing, it would not be desirable to revoke the suspension. He further submits that it is well settled in law in service jurisprudence that suspension is not a punishment.

6. However, considering the aforesaid fact and submissions made by the learned counsel for the respective parties, this Court

directs the Opposite Party No.4 to consider the representation of the Petitioner dated 29.09.2022 under Annexure-3 in accordance with law within a period of two weeks from the date of production of certified copy of this order. It is needless to mention here that the representation of the Petitioner shall be considered and disposed of by passing a speaking and reasoned order. Any decision so taken on the said representation shall be communicated to the Petitioner within a period of ten days thereafter.

7. It is open to the Petitioner to approach the authority concerned for fixation of headquarter at Khurda.

8. It is also open to the Petitioner to file a fresh representation before the authority concerned and in that event, the authority concerned shall consider and dispose of the same within two weeks from the date of filing of such representation.

9. It is made clear that the Petitioner shall cooperate with the Disciplinary Proceeding and shall abide the order of the authorities.

10. Urgent certified copy of this order be granted on proper application.

(A.K. Mohapatra)
Judge