

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.3967 of 2014

An application under Section 19 of the State Administrative Tribunal's Act, 1985.

.....

Budhu Mahali

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

For Petitioner : M/s. Mr.J.K.Lenka,
S.K.Behera & P.K.Behera.

For Opp. Parties : M/s. N.K.Praharaj,
Standing Counsel.

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

संविधिक न्यायो

Date of Hearing:10.05.2022 and Date of Order:18.05.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Mode.
2. Heard Mr. J.K.Lenka, learned counsel for the Petitioner and Mr. N.K.Praharaj, learned Standing counsel for the State-Opposite Parties.
3. The Petitioner is aggrieved by the order dated 10.12.2012 passed by the Opposite Party No.2 under Annexure-2, wherein an amount of Rs.44,550/- was directed to be recovered from the Petitioner.

4. It is submitted by Mr. Lenka, learned counsel for the Petitioner that prior to issuance of such a direction, no opportunity was given to the Petitioner to prove his innocence and straight away the said order was passed with the aforesaid direction.

5. It is also submitted that the said direction to recover an amount of Rs.44,550/- was issued basing on the objection raised by the audit.

6. It is also submitted that even though the order was passed on 10.12.2012 and the writ petition was filed on 02.12.2014, but no recovery has been effected from the Petitioner.

7. Mr. Praharaj, learned counsel for the State-Opposite Parties on the other hand made his submission relying on the stand taken in the counter affidavit. It is submitted that basing on the report of Joint Verification Committee and in compliance of the IAR, recovery order was passed against the Petitioner. But to the specific query of this Court regarding issuance of any show cause and providing opportunity of hearing to the Petitioner to prove his innocence with regard to the alleged demand, no reply could be made by Mr. Praharaj.

8. In view of such stand taken by the learned counsel for the Parties, this Court finds that prior to issuance of the impugned order dated 10.12.2012 under Annexure-2, no opportunity has been given to the Petitioner to prove his innocence. Therefore, only on the ground of non-compliance of principle of natural justice, this Court is inclined to quash the said order dated 10.12.2012 under

Annexure-2. While setting aside the same, this Court remands the matter to the Opposite Party No.4 to take a fresh decision by giving a reasonable opportunity of hearing to the Petitioner.

9. Since the Petitioner has retired in the meantime, this Court directs the said opposite party to take a fresh decision within a period of three months from the date of receipt of this order.

10. With the aforesaid observations and directions, the WPC(OAC) stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 18th of May, 2022/Subrat

