

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OA) No.468 of 2017

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

.....

Sri Prabhakar Mohanty

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

For Petitioner : M/s. P.K. Mishra(Advocate)
K.L. Kar (Advocate)
C.R. Dash (Advocate)

For Opp. Parties : Mr. M.K. Balabantaray
Standing Counsel

PRESENT:

THE HON'BLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 21.07.2022 and Date of Order: 11.08.2022

Biraja Prasanna Satapathy, J.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical)
Mode.

2. Heard Mr. P.K. Mishra, learned counsel for the Petitioner and Mr. M.K.
Balabantaray, learned Standing Counsel appearing for the Opp. Parties.

3. The Petitioner has filed the present writ Petition with the following prayer:-

“In view of the facts stated above in paragraph-6, the applicant prays for the following relief(s):-

- (i) The Hon’ble Tribunal may be pleased to quash the impugned memorandum of charges vide No.870 dated 24.09.2015 under Annexure-2, order of O.P.S.C. No.6594 dated 31.10.2016 at Annexure-20 and impugned order of punishment No. 1465 dated 08.12.2016 at Annexure-21.*
- (ii) The Hon’ble Tribunal may be pleased to direct the Respondent No. 1 to treat the period of suspension of applicant as duty and disburse the differential pay to the applicant within a time to be stipulated.*
- (iii) Any other relief(s) the Hon’ble Tribunal deemed fit and proper in interest of justice.”*

4. It is submitted that W.P.(C) No.27239 of 2013 was filed by one Debendranath Balabantaray before this Court claiming refund of his EMD amounting to Rs.2,56,000/- (Rs. Two lakh fifty six thousand) along with interest @ 8% per annum in respect of the work executed by him i.e. construction of Jagamuguda M.I.P. in Koraput Block under M.I. Sub-division, Koraput. The said writ Petition was disposed of on 20.08.2014 vide order under Annexure-5 with the following directions:-

“Be that as it may, having regard to the facts and circumstances of the case, we dispose of the instant Petition by requiring the opposite party Nos. 1 and 2, more particularly the Commissioner-cum-Principal Secretary to Government, Water Resources Department, Odisha to complete the process relating to refund of the earnest money deposited by the Petitioner within a period of four weeks from the date of receipt of certified copy of this order. It they consider it necessary, they would afford an opportunity to the Petitioner of being heard before taking a final decision. Ordered accordingly.”

5. Mr. Mishra, learned counsel for the Petitioner submitted that the work executed by the Petitioner in W.P.(C) No. 27239 of 2013 was coming under M.I. Division, Rayagada and Govt. in the Department of Water Resources vide its order No.4409 dtd.25.02.2015 decided to file a review Petition seeking review of the impugned order dtd.20.08.2014 passed in W.P.(C) No. 27239 of 2013.

6. It is submitted that the Petitioner though during the relevant time was working as in-charge Executive Engineer of M.I. Division, Jeypore, but he was requested by the Govt. to consult with the learned Advocate General, Odisha for filing of the said review Petition. It is further submitted that in terms of the said letter the Petitioner attended the office of Advocate General on 07.03.2015 and the matter was assigned to Sri Jyoti Prakash Pattnaik, learned AGA. The Petitioner accordingly as directed attended Sri Jyoti Prakash Pattnaik, learned AGA on 07.03.2015, 13.04.2015, 01.05.2015, 20.05.2015 and 11.07.2015 for filing of the review Petition.

7. It is submitted that even though the Petitioner pursuant to the direction of the Govt. approached the office of Advocate General on different occasion, but no review Petition was filed. As in the meantime seeking compliance of the order passed in W.P.(C) No.27239 of 2013, this Court directed for personal appearance of O.P. No. 1 on 08.07.2015, the Petitioner was not only placed under suspension, but a proceeding was also initiated on 07.07.2015 vide Annexure-1. In the said proceeding the following charges were framed against the Petitioner:-

"1. Disobedience of Govt. Orders.

2. Negligence in Duty.

3. Causing Financial burden on Govt. to the tune of Rs.2,56,000/-."

8. It is submitted that the work undertaken by the Petitioner in W.P.(C) No.27239 of 2013 was coming under M.I. Division, Jeypore and the Petitioner all through was working under M.I. Division, Rayagada. Since vide order dtd.25.02.2015 the Petitioner was directed to move the learned Advocate General, Odisha for filing of a review against the order passed in the said W.P.(C) No. 27239 of 2013, the Petitioner as directed appeared before the learned Additional Government Advocate Sri Jyoti Prakash Pattnaik on different dates. But the review Petition was never filed and the Petitioner because of the personal appearance issued by this Court in the contempt proceeding arising out of W.P.(C) No. 27239 of 2013 was placed under suspension on 07.07.2015 and the proceeding was initiated on 08.07.2015.

9. Mr. Mishra, learned counsel for the Petitioner submitted that on receipt of the charges though the Petitioner filed his written statement of defence disclosing the steps taken by him for filing of the review Petition and the letter issued by Sri Jyoti Prakash Pattnaik, learned AGA on 29.07.2015 and 22.08.2015, but O.P. No. 1 proceeded with the inquiry as against the Petitioner.

10. Mr. Mishra submitted that vide his letter dtd.29.07.2015 and 22.08.2015 Sri Jyoti Prakash Pattnaik, learned AGA clearly intimated that no review is permissible against the order dtd.20.08.2014 and if the State Govt. desires, it can file a misc. case seeking extension of time to comply with the order. Mr. Mishra accordingly submitted that in view of such report on the learned AGA, the Petitioner should not have been proceeded with in the disciplinary proceeding with the allegation that because of his in- action not only the personal appearance of O.P. No. 1 was called for, but also the State Govt. due to laches of the Petitioner was compelled to pay the amount of Rs.2,56,000/-

(Rs. Two lakh fifty six thousand) in favour of the Petitioner in the said W.P.(C) No. 27239 of 2013, which is a burden on the State Ex-chequer.

11. Mr. Mishra also brought to the notice of this Court the statement of Sri Jyoti Prakash Pattnaik, learned AGA taken in the proceeding initiated vide Annexure-1. In his statement available at Annexure-10, it is clearly stated that the Petitioner appeared before him on different dates and the opinion was sent on 27.07.2015, which was agreed by the learned Advocate General on 28.07.2015 that no review is advisable for filing against the order passed in W.P.(C) No.27239 of 2013. Mr. Pattnaik in his statement also clearly deposed that there is no scope of review of the said order as per law.

12. Mr. Mishra, learned counsel for the Petitioner further submitted that taking into account the materials collected through the inquiry, the inquiry officer submitted his report under Annexure-14 by proposing as follows:-

“But the Charge No.(ii) i.e. Negligence of duties on the part of Sri Mohanty is partially proved, as he failed to produce supporting documents/official communications regarding periodical developments of the case in the O/o the Advocate General, Odisha, Cuttack to his higher authorities i.e. either to the Superintending Engineer, KBK M.I. Circle-II, Jeypore and Chief Engineer, Minor Irrigation, Odisha or even to the Govt. in the Dept. of Water Resources, even though he had stated in his statement of defence that he had apprised the matter to his Superintending Engineer & Chief Engineer personally.”

13. It is submitted that the Petitioner when was issued with the first show cause by enclosing the copy of the inquiry report, he submitted his reply with a prayer to exonerate him from the charges. It is further submitted that without considering his reply in its proper perspective, O.P. No. 1 when issued the second show-cause by proposing stoppage of one increment without cumulative effect, to censure the Petitioner and treat the period of

suspension as leave due and admissible under Annexure-18, the Petitioner submitted his reply under Annexure-19 with a prayer to exonerate him from the charges.

14. It is submitted that without considering the same the disciplinary Authority after obtaining the concurrence from the OPSC under Annexure-20 passed the impugned order of punishment on 08.12.2016 under Annexure-21 by inflicting the following punishments:-

“(1) Stoppage of one increment without cumulative effect.

(2) Censured to be careful in future and

(3) The period of suspension may be treated as leave due and admissible.”

15. It is submitted that challenging the order of punishment when this writ Petition was filed, this Court while issuing notice of the matter vide Order dtd.06.04.2017 stayed the order of punishment. It is also submitted that during subsistence of such interim order, Petitioner retired from service on attaining the age of superannuation on 31.05.2021.

16. It is submitted that since the inquiry officer in his report under Annexure-14 never recommended to inflict the punishment so proposed by the disciplinary Authority, the said Authority while issuing the second show-cause under Annexure-18 should have given his disagreement note and the reason for not agreeing with the finding of the inquiry officer.

17. In the second show cause issued under Annexure-18 no disagreement note since was given, the same is contrary to the provision contained under Rule 15 of the OCS (CCA) Rule, 1962 and in absence of such disagreement note, the order of punishment so passed under Annexure-21 is illegal and not sustainable in the eye of law. Accordingly, Mr. Mishra submitted that the

impugned order of punishment needs interference of this Court. Mr. Mishra, learned counsel for the Petitioner in support of his aforesaid submission relied on a decision of the Hon'ble Apex Court passed on 02.01.2017 in Civil appeal No. 7600 of 2014 and the decision of this Court reported in **2006 Suppl. I OLR 644** and **2006 (II) OLR 172**.

18. In Civil Appeal No.7600 of 2014, Hon'ble Court in Para 7 & 8 held as follows:-

“7. We have given our anxious consideration to the submissions at the bar. It is true that a writ court is very slow in interfering with the findings of facts recorded by a Departmental Authority on the basis of evidence available on record. But it is equally true that in a case where the Disciplinary Authority records a finding that is unsupported by any evidence whatsoever or a finding which no reasonable person could have arrived at, the writ court would be justified if not duty bound to examine the matter and grant relief in appropriate cases. The writ court will certainly interfere with disciplinary enquiry or the resultant orders passed by the competent authority on that basis if the enquiry itself was vitiated on account of violation of principles of natural justice, as is alleged to be the position in the present case. Non-application of mind by the Enquiry Officer or the Disciplinary Authority, non-recording of reasons in support of the conclusion arrived at by them are also grounds on which the writ courts are justified in interfering with the orders of punishment. The High Court has, in the case at hand, found all these infirmities in the order passed by the Disciplinary Authority and the Appellate Authority. The respondent's case that the enquiry was conducted without giving a fair and reasonable opportunity for leading evidence in defense has not been effectively rebutted by the appellant. More importantly the Disciplinary Authority does not appear to have properly appreciated the evidence nor recorded reasons in support of his conclusion. To add insult to injury the Appellate Authority instead of recording its own reasons and independently appreciating the material on record, simply reproduced the

findings of the Disciplinary Authority. All told the Enquiry Officer, the Disciplinary Authority and the Appellate Authority have faltered in the discharge of their duties resulting in miscarriage of justice. The High Court was in that view right in interfering with the orders passed by the Disciplinary Authority and the Appellate Authority.

8. There is no quarrel with the proposition that in cases where the High Court finds the enquiry to be deficient either procedurally or otherwise the proper course always is to remand the matter back to the concerned authority to redo the same afresh. That course could have been followed even in the present case. The matter could be remanded back to the Disciplinary Authority or to the Enquiry Officer for a proper enquiry and a fresh report and order. But that course may not have been the only course open in a given situation. There may be situations where because of a long time lag or such other supervening circumstances the writ court considers it unfair, harsh or otherwise unnecessary to direct a fresh enquiry or fresh order by the competent authority. That is precisely what the High Court has done in the case at hand. The High Court has taken note of the fact that the respondent had been placed under suspension in the year 2004 and dismissed in the year 2005. The dismissal order was challenged in the High Court in the year 2006 but the writ petition remained pending in the High Court for nearly seven years till 2013. During the intervening period the respondent superannuated on 30th November, 2011. Not only that he had suffered a heart attack and a stroke that has rendered him physically disabled and confined to bed. The respondent may by now have turned 65 years of age. Any remand either to the Enquiry Officer for a fresh enquiry or to the Disciplinary Authority for a fresh order or even to the Appellate Authority would thus be very harsh and would practically deny to the respondent any relief whatsoever. Superadded to all this is the fact that the High Court has found, that there was no allegation nor any evidence to show the extent of loss, if any, suffered by the bank on account of the alleged misconduct of the respondent. The discretion vested in the High Court in not remanding the matter back was, therefore, properly exercised.”

19. In 2006 (supp. I) OLR 644, Hon'ble Court in Para 17 to 24 held as follows:-

“17. We have perused the inquiry report and found that there is no whisper therein regarding recording of any evidence. It appears that the Inquiring Officer/C.D.I. has only considered the contents of charge sheet and its reply. The explanation submitted by the Petitioner supported by some documents was accepted by him and he submitted his report accordingly. Therefore, the punishing authority has no other option than either to accept the Inquiry report or to reject the same and pass an order of de novo inquiry. It could not have formed its opinion beyond the record of inquiry proceeding. Therefore, in our opinion, in the instant case the first vital question involved is whether it was proper on the part of the punishing authority to disagree with the findings of the Inquiring Officer without giving any reason and whether the Petitioner could be held guilty in the absence of any material evidence in the inquiry proceeding. We have already quoted the relevant part of the orders passed by the punishing authority and the recommendation made by the Public Service Commission.

18. No doubt, a Commission of Inquiry was set up by the State Government, but the punishment was not based solely and directly on the basis of the report of the Commission of Inquiry. It was based on the departmental proceeding conducted by the Inquiring Officer/C.D.I. When the State Government received the inquiry report in the Disciplinary Proceeding, they had decided to accept the same. But when the P.S.C. sent a different recommendation, the Government changed its view, and decided to impose major penalty, i.e. reduction in rank and treatment of period of suspension as such. However, no reason was given by the State government for doing so. Merely taking a decision to accept the advice of the Commission regarding imposition of major punishment upon the Petitioner could not have relieved the State Government from its responsibility of giving reasons for doing the above, there is specific provision in Rule 15(10)(i)(a)(b) of OCS (CCA) Rules 1962. According to the said Rule, it is mandatory on the part of the Punishing Authority to give reason in case of disagreement with the inquiry report. The said provision is quoted hereinafter.

“15(10)(i)(a)(b) if the inquiring officer is not the disciplinary authority, the disciplinary authority shall furnish to the Inquiring Officer and given him notice by registered post or otherwise calling upon him to submit within period of fifteen days such representation as he may wish to make against findings of the Inquiring Authority.

(b) On receipt of the representation referred to in Sub-clause (a) the disciplinary authority having regard to the findings on the charges is of the opinion that any of the penalties specified in Clauses (vi) to (ix) of Rule 13 should be imposed, he shall furnish to the delinquent Government servant a statement of its findings along with brief reasons for disagreement, if any, with the findings of the inquiring officer and give him a notice by Registered post r otherwise stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representations as he may wish to make against the proposed penalty;

Provided that in every case in which it is necessary to consult the Commission under the provision of the Constitution of India and the Orissa Public Service Commission (Limitation of functions) Regulation, 1989 the record of Inquiry together with a copy of the notice given under Sub-Clause (a) and the representation if any, received within the specified time in response to such notice shall be forwarded by the disciplinary authority to the Commission for its advice.”

19. In the instant case, although the Inquiring Officer/C.D.I. did not find the petitioner guilty and specifically held that the charges framed against the petitioner were not proved, but the punishing authority has taken a view contrary to the findings of the Inquiring Officer that the charges leveled against the Petitioner were proved. Therefore, it cannot be said that the punishing authority did not disagree with the inquiry report. It was the own suggestion of the Inquiring Officer, which was beyond the findings that the petitioner did not take extra care and on the basis, recommended the punishment of censure, which could not have been drawn that the conclusion of the Inquiring Officer was that the charges were proved against delinquent officer and as such the same was not in

fact a disagreement with the finding of the Inquiring Officer by the punishing authority in imposing major punishment by the impugned order.

20. In the case of Joginath D. Badge v. State of Maharashtra and another reported in (1999) 7 Supreme Court Cases 739 the Apex Court held that:-

“It was open to the Disciplinary Authority either to agree with the findings recorded by the enquiring Authority or disagree with those findings. If it does not agree with the findings of the enquiring Authority, it may record its own findings. Where the Enquiring Authority has found the delinquent officer guilty of the charges framed against him and the Disciplinary Authority agrees with those findings, there would arise no difficulty. So also, if the Enquiring Authority has held the charges proved, but the Disciplinary Authority disagrees and records a finding that the charges were not established, there would arise no difficulty. So also if the enquiring authority has held the charges proved, but the disciplinary authority disagrees and records a finding that the charges were not established Difficulties have arisen in all those cases in which the Inquiring Authority has recorded a positive finding that the charges were not established, there would arise no difficulty. Difficulties have arisen in all those cases in which the enquiry authority has recorded a positive findings that the charges were not established and the delinquent officer was recommended to be exonerated, but the Disciplinary Authority disagreed with those findings and recorded its own findings that the charges were established and the delinquent officer was liable to be punished. This difficulty relates to the question of giving an opportunity of hearing to the delinquent officer at that stage. Such an opportunity may either be provided specifically by the Rules made under Article 309 of the Constitution or the Disciplinary Authority may, of its own, provide such an opportunity. Where the Rules are in this regard silent and the Disciplinary Authority also does not give an opportunity of hearing to the delinquent officer and records findings, different from those of the Inquiring Authority that the charges were established, "an opportunity of hearing" may have to be read into the Rule by which the procedure for dealing with the Inquiring Authority's report is provided principally because it would be contrary to the principles of natural justice if a delinquent officer, who has already been held to be 'not guilty' by the Inquiring Authority, is found 'guilty' without being afforded an opportunity of hearing on the basis of the

same evidence and material on which a finding of "not guilty" has already been recorded."

21. In the case of State of Rajasthan . M.C. Saxena reported in A.I.R. 1998 S.C. 1150, the Apex Court has laid down that if the Disciplinary Authority gives reasons for disagreeing with the findings of the Inquiring Officer then the Court cannot interfere with those findings unless it comes to the conclusion that no reasonable man can come to the said finding.

22. If in the above-mentioned circumstances, the punishing authority has not given any reason for his disagreement with the finding recorded by the Inquiring Officer, it cannot be said that the Petitioner has been afforded an adequate opportunity of hearing, as he was not in a position to explain his case in his representation. Therefore, it can be said without any hesitation the adequate opportunity of hearing was not afforded to the petitioner to defend his case and the impugned punishment order has been passed in violation of principles of natural justice.

23. In view of the above mentioned facts and circumstances, we are of the firm view that the impugned order of punishment reducing the petitioner in rank from the post of Excise superintendent to those post of the Deputy Superintendent of Excise is not sustainable in the eye of law and the Tribunal has committed manifest error of law in dismissing the O.A.

24. Therefore, the writ Petition is allowed in part and the impugned order of punishment as well as the impugned order passed by the Tribunal in O.A. No.973(C) of 2005 confirming the punishment of reduction in rank are quashed. However, it will be open for the punishing authority to reconsider the matter in the light of the observation made in the body of this Judgment, in accordance with law."

20. In 2006 (II) OLR 172, Hon'ble Court in Para 4 to 6 held as follows:-

4. We have gone through the impugned judgment of the Tribunal, judgment passed in the earlier O.A., inquiry report and the rules governing the field. Sub-rule 10(ii) of Rule-15, non-compliance of which is alleged by the petitioner, reads as under:

“The orders passed by the disciplinary authority shall be communicated to the Government servant, who shall also be supplied with a copy of the report of inquiring authority and where the disciplinary authority is not the inquiring authority, a statement of its findings together with brief reasons for disagreement, if any, with the findings of the inquiring authority as well as a copy of the advice of the Commission, where the Commission had been consulted, and brief statement of reasons for non-acceptance of the advice of the Commission, if the disciplinary authority has not accepted such advice.”

On perusal of the aforesaid provision, it would be manifest that the Disciplinary Authority shall communicate the delinquent officer a copy of the report of the inquiring authority, the statement of findings together with the reasons for disagreement, if any, with the findings of the inquiring authority. But in the instant case, after the Tribunal's judgment in the earlier O.A., the petitioner submitted his interim comments on 28.07.1997. He was asked to furnish his final comments, if any, vide letter dated 01.11.1997 and he submitted his final comments on 24.12.1997. Thereafter, the punishment order was passed on 19.01.1999 withholding three consecutive increments with cumulative effect. It is worthwhile to mention that in the letter dated 01.11.1997, by which the petitioner was asked to submit his final comments, no reason was ascribed with regard to disagreement from the findings of the Inquiry Officer. Only he was asked to furnish his final comments.

5. The apex Court in Bagde's case (supra) in para 33 of its judgment has held as under:

“In view of the above, a delinquent employee has the right of hearing not only during the enquiry proceedings conducted by the Enquiry Officer into the charges levelled against him but also at the stage at which those findings are considered by the Disciplinary Authority and the latter, namely, the Disciplinary Authority forms a tentative opinion that it does not agree with the findings recorded by the Enquiry Officer. If the findings recorded by the Enquiry Officer are in favour of the delinquent and it has been held that the charges are not proved, it is all the more necessary to give an opportunity of hearing to the delinquent employee before reversing those findings. The formation of opinion should be tentative and not final. It is at this stage that the delinquent employee should be given an opportunity of hearing after he is informed of the reasons on the basis of which the Disciplinary Authority has proposed to disagree with the findings of the Enquiry Officer. This is in consonance with the requirement of Article 311(2) of the Constitution as it provides that a person shall not be dismissed or removed or reduced in rank except after an enquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. So long as a final decision is not taken in the matter, the enquiry shall be deemed to be pending. Mere submission of findings to the Disciplinary Authority does not bring about the closure of the enquiry proceedings. The enquiry proceedings would come to an end only when the findings have been considered by the Disciplinary Authority and the charges are either held to be not proved or found to be proved and in that event punishment is inflicted upon

the delinquent. That being so, the 'right to be heard' would be available to the delinquent up to the final stage. This right being a constitutional right of the employee cannot be taken away in any legislative enactment or Service Rule including Rules made under Article 309 of the Constitution."

6. Admittedly, in the case at hand, the Disciplinary Authority disagreed with the findings of the inquiry authority. But at no point of time, the petitioner was made to know about the reasons for such disagreement. He was also never asked to submit his reply to the proposed disagreement by the disciplinary authority. In other words, the disciplinary authority has taken a final decision that the charges leveled against the petitioner have been proved. The petitioner was only asked to show cause against the punishment, not against the proposed disagreement. The Tribunal has lost sight of the aforesaid fact. Since the disciplinary authority did not give any opportunity of hearing to the petitioner before taking final decision in the matter relating to the disagreement, there has been violation of principle of natural justice. In our considered opinion, the ratio decided in Bagde (supra) is squarely applicable to the present case."

21. Per contra Mr. Balabantaray, learned Standing Counsel made his submission basing on the counter filed by O.P. Nos.1, 2 & 3. It is submitted that due to the alleged laches of the Petitioner in not filing the review Petition so directed by the Govt. vide order dtd.25.02.2015, not only this Court directed for personal appearance of O.P. No. 1 in the contempt proceeding filed by the Petitioner of W.P.(C) No. 27239 of 2013, but also due to such in action of the Petitioner, the State Govt. was compelled to pay an amount to the tune of Rs.2,56,000/- (Rs. Two lakh fifty six thousand) in favour of the Petitioner of the said W.P.(C) No. 27239 of 2013. Accordingly, it is submitted that no illegality has been committed by the disciplinary Authority while passing the impugned order of punishment under Annexure-21.

22. Heard learned counsel for the Parties. Perused the materials available on record. This Court after going through the same finds that the proceeding against the Petitioner under Annexure-1 is initiated when the personal appearance of O.P. No. 1 was directed by this Court in the contempt proceeding arising out of the said W.P.(C) No. 27239 of 2013. This Court further finds that pursuant to the order dtd.25.02.2015 of the Govt.-O.P. No. 1, the Petitioner though appeared in the office of Advocate General, Odisha

on different dates, but learned AGA Sri Jyoti Prakash Pattnaik clearly gave his opinion by submitting that no review is maintainable as against the order passed in the said W.P.(C) No.27239 of 2013.

23. The said learned AGA in his deposition under Annexure-10 also supported his view that no review was maintainable against the order passed in W.P.(C) No.27239 of 2013. The said opinion of the learned AGA was also accepted by the learned Advocate General and the said AGA also reported the same vide his letter dtd.29.07.2015 under Annexure-6 series and on 22.08.2015 under Annexure-7 series. This Court further finds that while issuing the second show cause under Annexure-18, since no disagreement note was given by the disciplinary Authority, it cannot be taken as a proper show cause in the eye of law.

24. Therefore, taking into account the materials available on record the submission made by the learned counsel appearing for the Parties and the decision relied on by Mr. Mishra, this Court has got no hesitation in quashing the order of punishment passed against the Petitioner on 08.12.2016 under Annexure-21. While quashing the same, this Court directs the Opp. Parties to extend all financial benefits as due and admissible in favour of the Petitioner within a period of three (3) months from the date of receipt of this order.

25. The writ Petition is disposed of with the aforesaid observation and directions.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 11th of August, 2022/Sneha