

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OAC) No.2740 of 2017

Duryodhan Pradhan

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

05.09.2022

Order No

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

2. Heard Mr. S. Mohanty, learned counsel for the Petitioner and Mr. N.N. Satapathy, learned Standing Counsel appearing for the Opp. Parties.

3. The present writ Petition has been filed with a prayer to quash the order dtd.01.11.2016 passed by the O.P. No. 3 under Annexure-6.

4. It is submitted that the Petitioner while continuing as Primary School Teacher, he remained on leave w.e.f.27.09.2004 till 27.01.2016. It is submitted that on his recovery when he submitted his joining that was not accepted in spite of the letter issued by the O.P. No. 4 under Annexure-5.

5. It is further submitted that since the Petitioner remained on medical leave for the aforesaid period, the said period of absence is required to be considered by the Opp. Parties. It is also submitted that for the said unauthorized absence of the Petitioner no

proceeding was initiated against the Petitioner with service of charges.

6. Mr. Satapathy, learned Standing Counsel appearing for the Opp. Parties on the other hand submitted that since the Petitioner remained on unauthorized leave w.e.f.27.09.2004, a proceeding was initiated against him vide memorandum dtd.29.01.2007. But it is submitted that the said memorandum could not be served on the Petitioner because of his long absence.

7. Be that as it may, since admittedly the Petitioner remained on unauthorized leave for a period exceeding 5 years, the said period is to be considered only by the Govt. in accordance with Rule 72 of the Odisha Service Code.

8. Therefore, while disposing the writ Petition, this Court directs O.P. No. 1 to take a decision on such regularization of service of the Petitioner for the period 27.09.2004 to 27.01.2016. Appropriate order be passed in that regard within a period of three (3) months from the date of receipt of this order. While taking such a decision, the Petitioner be given a personal hearing and be allowed to submit relevant documents in support of his illness for the aforesaid period.

9. The writ Petition is disposed of with the aforesaid observation and direction.

(Biraja Prasanna Satapathy)
Judge

Sneha