

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.C(OAS) No. 51 of 2017

Ignace Kiro

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
16.9.2022

Order No

2.

1. This matter is taken up through Hybrid Mode.

2. Heard Mr. S.K. Purohit, learned counsel for the petitioner and Mr. Panigrahi, learned A.S.C.

3. The petitioner is aggrieved by the order of punishment passed against the petitioner on 18.1.2007 under Annexure-5. Mr. Purohit, learned counsel for the petitioner submitted that after his retirement w.e.f 31.12.2011 when a proceeding was initiated against him on 29.6.2013, the petitioner challenging the same approached the learned Tribunal in O.A. No.52(S) of 2013. It is submitted that learned Tribunal vide order dated 16.12.2013 under Annexure-4 quashed the said proceeding with the observation that the Government may examine the matter afresh keeping in view of the provisions of the Orissa Pension Rules, 1992 and take appropriate action.

4. Mr. Purohit, learned counsel for the petitioner submitted that since the incident which is the subject matter of the proceeding relates back to the year 2005-06, in view of the provision contained under Rule 27(2)(4) of the OCS

Pension Rules, 1992, no such proceeding could have been initiated against the petitioner on the face of the order passed by the learned Tribunal on 16.12.2013. It is accordingly submitted that the initiation of the proceeding on the face of the such order under Annexure-2 and the consequential order passed under Annexure-5 are not sustainable.

5. This Court after going through the charge memo under Annexure-2 finds that the proceeding was initiated on 11.2.2014 in respect of incident in the year 2005-06. Therefore, in view of the clear provision contained under Rule 7(2)(4) of the OCS Pension Rules, 1992, no such proceeding could have been initiated against the petitioner. The proceeding was also initiated without following the direction issued by the learned Tribunal in its order dated 16.12.2013.

6. In view of that, this Court is inclined to quash the impugned order passed on 18.1.2017 under Annexure-5 as well as the proceeding initiated against the petitioner on 1.11.2014 under Annexure-2. While quashing the same, this Court directs opp. party no.2 to release the benefit as due and admissible in favour of the petitioner within a period of three months from the date of receipt of this order.

7. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge