

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OA) No.1988 of 2017

Dr. Raj Kishore Mohapatra

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

14.09.2022

Order No

- 1.** This matter is taken up through Hybrid Mode.
- 2.** Heard Mr. S.Mohanty, learned counsel for Petitioner and Mr. Panigrahi, learned Addl. Standing Counsel for the State-Opposite Parties.
- 3.** The present Writ Petition has been filed with the following prayer:-

“(i) The impugned order at Annexure-4 (in part) and Annexure-5 & 6 be quashed as not being in accordance with the statutory provisions of law as stated in the O.A.

(ii) The State Respondents be directed to treat the period of suspension from 16.06.2007 to 29.04.2008 as duty and the pay and allowances for the aforesaid period be drawn and disbursed to the applicant at an early date with interest @ 9% per annum on the arrear duty pay amount as per the dictum of the Hon’ble High Court of Orissa.

(iii) After drawl of the pay for the period of suspension, his pay and pensionary benefits be revised and his arrears on pay and pensionary benefits be drawn and disbursed to him at an early date with all other service and financial benefits.

(iv) Any other relief(s) as deem fit & proper”.

4. Learned counsel for the Petitioner submitted that since the proceeding initiated against the petitioner was treated as dropped vide order dated 13.03.2013 under Annexure-4, the period of suspension should not have been treated as leave due and admissible in view of the provision contained under Rule 91(2) & (4) of the Orissa Service Code.

5. Considering the said submission of Mr. Mohanty, this Court on 26.8.2022 had directed to learned State Counsel to obtain instruction on the same. Today when the matter was taken up, it was fairly submitted by Mr. Panigrahi, learned Addl. Standing Counsel that in view of the said provision, the period of suspension of the petitioner should not have been treated as leave due and admissible.

6. Taking into account the stand taken by the learned counsel for the Parties, this Court while quashing the order at Annexure-4 so far as the order to treat the period of suspension as leave due and admissible direct the Opposite Party No.1 to pass a fresh order in accordance with law. If on such reconsideration, Petitioner became entitled to get any financial benefit, the same be also extended in his favour. The said exercise shall be completed within a period of two months from the date of receipt of this order.

7. Accordingly, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge