

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) (OAC) No.3187 of 2014

Kedarnath Bhoi

.... ***Petitioner***

Mr. U.C. Mohanty, Advocate

-versus-

***State of Odisha and
Others***

.... ***Opposite Parties***

Mr. H.K. Panigrahi, ASC

**CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER
24.07.2023**

Order No.

06.

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

2. Heard Mr. U.C. Mohanty, learned counsel appearing for the Petitioner and Mr. H.K. Panigrahi, learned Addl. Standing Counsel for the State.

3. The Petitioner has filed the present writ petition challenging the order of punishment passed by Opposite Party No.1 vide order dated 25.10.2013 under Annexure-14 and confirmation of the same vide order dated 24.06.2014 under Annexure-15.

4. It is contended that in the proceeding initiated against the Petitioner on 24.09.2010 under Annexure-9, the Petitioner duly participated in the enquiry. But without complying the provisions contained under Rule-15 of the OCS (CC&A) Rules, 1962, the order of

punishment was passed vide the impugned order under Annexure-14 and so confirmed vide order under Annexure-15.

4.1. It is contended that since the punishment imposed on the Petitioner vide the impugned order under Annexure-14 to stop one annual increment without cumulative effect is in the nature of minor penalty, while imposing such punishment, the punishment to treat the period of suspension as such cannot be imposed in view of the decision of this Court in the case of ***Dr. Smita Mohanty vs. State of Odisha & Others in (WPC(OA) No.2585 of 2016, disposed of on 05.07.2023).***

4.2. It is contended that once the Petitioner vide the impugned order was imposed with a minor penalty in the nature of stoppage of one increment without cumulative effect, the period of suspension has to be treated as duty in view of the decision as cited (supra). Accordingly, it is contended that the punishment to treat the period of suspension as such needs interference of this Court.

5. Mr. Panigrahi, learned Addl. Standing Counsel though supported the impugned order, but could not dispute the decision of this Court in the aforementioned case.

6. Having heard learned counsel for the Parties and taking into account the fact that the Petitioner was imposed with a minor punishment in the nature of stoppage of one annual increment without cumulative

effect, the period of suspension from 27.01.2009 to 22.08.2010 could not have been treated as such. The direction to treat the period of suspension as such is not sustainable in the eye of law.

6.1. Placing reliance on the decision as cited (supra), this Court while interfering with the impugned order directs the authority to treat the period of suspension from 27.01.2009 to 22.08.2010 as duty. While treating the period as duty, consequential follow up action be taken to release the financial benefits as due and admissible. This Court directs Opposite Party No.1 to undertake and complete the entire exercise as directed within a period of three (3) months from the date of receipt of this order.

7. With the aforesaid observations and directions, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat

Signature Not Verified

Digitally Signed
Signed by: SUBRAT KUMAR BARIK
Reason: ..
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 02-Aug-2023 16:06:08

