

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No.2810 of 2012

Akhil Charan Jena **Petitioner**

Mr. N.K. Acharya, Advocate,

-versus-

State of Odisha & others **Opp.parties**

Mr. R.N. Mishra, Addl. Govt. Advocate.

**CORAM:
JUSTICE M.S.SAHOO**

ORDER

16.02.2022

Order No.

1.

This matter is taken up through hybrid mode.

The writ petition has been registered before this Court on 26th November, 2021 after being transferred from the State Administrative Tribunal, Cuttack Bench, Cuttack.

On perusal of the order-sheet of the Tribunal as available, it is indicated that the matter was not heard for admission on 14.09.2012 and 19.11.2013. When it was listed on 28.01.2014, none had appeared for the applicant and the Tribunal observed that the matter is to be dismissed if none appears for the applicant on the next date. On 12.11.2016, again none had appeared for the applicant before the Tribunal and the matter was adjourned. Thereafter, the matter was listed before the learned Tribunal twice on 10.01.2017 and 20.02.2017 and thereafter, never listed till today.

On being asked, the learned counsel for the petitioner submits that he has not been able to contact

the petitioner, as the phone number given earlier is no more registered. It was further asked that since during the pendency of the original application from 2012 till date, no notices were issued, what is the up-to-date instruction regarding the disciplinary proceeding that was to be initiated against the applicant/petitioner, as per order dated 22.07.2010 (Annexure-1), which was received by the applicant on 19.08.2010.

It is submitted by the learned counsel for the applicant/petitioner that the order of suspension which was challenged in the earlier O.A. No.106 of 2011 was set aside by the Tribunal by its order dated 24.06.2011.

Since the initiation of the proceeding was never challenged by the applicant/petitioner as revealed from the pleadings, the learned counsel was asked whether he has instruction regarding the present position of the disciplinary proceeding. It is fairly submitted by the learned counsel for the petitioner that due to lack of communication with the applicant, he does not have any up-to-date instruction and the court may proceed to pass any order.

Learned Additional Government Advocate submits that since notices were never issued or no direction was issued to obtain instruction, the opposite parties have not provided any instructions and after a lapse of twelve years of the initiation of the Disciplinary Proceeding, it would not be just and proper to issue notice now.

Learned counsel for the petitioner submits that the petitioner was allowed provisional pension, for which he in the O.A. for final pension and other retiral benefits, which has been subsequently converted to the present writ petition.

It has to be noted that the continuation and result of disciplinary proceeding would impact pension that would be drawn by the applicant/petitioner. Since no instruction is forthcoming regarding the status of the said disciplinary proceeding, no purpose would be served in keeping the present writ petition pending and the same is dismissed with liberty to the petitioner to seek appropriate remedy, as would be available under law.

(M.S.Sahoo)
Judge

Gs

