

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C)(OA) No.639 of 2017

Kailash Chandra Rout

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

12.10.2022

Order No

03.

1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
2. Affidavit filed by O.P. Nos.1 & 2 in Court today be kept on record.
3. Heard Mr. A.K. Chhatoi, learned counsel for the Petitioner and Mr. R.N. Mishra, learned AGA appearing for the Opp. Parties.
4. The present writ Petition has been filed with the following prayer:-

“(i) The Hon’ble Tribunal may be pleased to quash the order of suspension dated 25.08.2016 at Annexure-2 and memorandum of charges dated 23.02.2017 at Annexure-3 and additional charge dated 3.3.2017 at Annexure-6 with all consequential service and financial benefits to the applicant.

(ii) The Hon’ble Tribunal be pleased to pass such other order/orders as deemed fit and proper.”

5. Mr. Chhatoi, learned counsel for the Petitioner submitted that even though learned Tribunal while issuing notice of the matter passed an interim order on 02.05.2017 that no final order will be passed in the Departmental Proceeding, but without following the said order the Departmental Proceeding was disposed of with passing of an order on dtd.15.11.2019 by compulsorily retiring the Petitioner from his service with immediate effect.

6. Mr. Chhatoi, learned counsel for the Petitioner submitted that since the interim order dtd.02.05.2017 was in force by the time the order of punishment was passed on 15.11.2019, the said order is a nullity in the eye of law and should be interfered by this Court.

7. Mr. Mishra, learned AGA on the other hand submitted that after passing of the order of punishment the Petitioner moved to the Hon'ble Governor seeking his reinstatement and regularization of his service. But the said prayer was also rejected by the Hon'ble Governor as reflected in the Communication dtd.10.06.2020 under Annexure-M to the affidavit. Accordingly, it is submitted that since the prayer for reinstatement has been rejected by the Hon'ble Governor, the Petitioner is not entitled to get any relief.

8. Heard learned counsel for the Parties and perused the materials available on record. This Court after going through the same, finds that the Disciplinary Authority passed the order of punishment on 15.11.2019 on the face of the interim order passed by the learned Tribunal on 02.05.2017. Since learned Tribunal in its order dtd.02.05.2017 had directed the Authority to proceed with the inquiry but not to pass the final order, no order of punishment could have been passed on 15.11.2019 during subsistence of the said order.

9. Therefore, this Court while disposing the writ Petition, is inclined to quash the order of punishment passed on 15.11.2019 vide Annexure-K to the affidavit as well as the rejection vide Annexure-M. While quashing the same, this Court permits the Departmental Authority to proceed with the inquiry from the stage of issuance of second show-cause and finalise the proceeding in accordance with law within a period of three (3) months from the date of receipt of this order.

10. The writ Petition is disposed of accordingly.

Sneha



(Biraja Prasanna Satapathy)
Judge