

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.30546 of 2022

Damodar Das

....

Petitioner

Mr. L.P. Dwivedy, Advocate

-versus-

Union of India and others

....

Opposite Parties

Mr. G. Mohanty, CGC

**CORAM:
JUSTICE A.K. MOHAPATRA**

**ORDER
28.11.2022**

Order No.

02.

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

2. Heard learned counsel for the petitioner as well as learned Central Government Counsel appearing for the Union of India. Perused the record.

3. The present writ petition has been filed with a prayer to quash the order dated 11.10.2022 passed by the Opposite Party No.4 under Annexure-5 with further prayer to direct the Opposite Parties to supply the documents as requested by the Petitioner as at Annexure-13 Series, with a further direction to the Opposite Parties to change the Opposite Party No.5 as the Enquiry Officer (E.O.) in the Departmental Proceeding, drawn up against the Petitioner.

4. It is submitted by the learned counsel for the Petitioner that although a disciplinary proceeding was initiated against the

Petitioner, the inquiry is being conducted at Bhubaneswar whereas the Petitioner was posted at present at Palasa.

5. Learned counsel for the Petitioner made allegation against the inquiry officer by saying that he is conducting inquiry at odd hours, i.e., in the late night at about 9/10 P.M. which cause inconvenience to the Petitioner. It is further stated that every time the Petitioner coming from Palasa to Bhubaneswar to attend the inquiry. It is further submitted that the departmental authorities have not provided the required documents which are necessary to file an effective show cause reply to the show cause notice issued and the charge framed in the disciplinary proceeding. In the absence of such documents, the Petitioner is facing difficult to give specific reply which cause prejudice to the Petitioner.

6. On perusal of the order dated 11.10.2022 under Annexure-5, which reveals that the representation of the Petitioner dated 29.09.2022 has not been considered by the competent authority as has been specific stated in the said letter. However, the representation dated 30.09.2022 regarding change of inquiry officer has been rejected and his representation dated 02.10.2022 regarding time and out permission for defence counsel. It is stated that no time permission will be given for nomination of defence counsel. However, the Petitioner has been advised to nominate a member of

the force to act as defence friend as per the provision laid down in RPF Rules, 1987.

7. Mr. Mohanty, learned Central Government Counsel appearing for the Opposite Parties submits that the allegations made by the Petitioner are fake and baseless. He further submits that some documents have been supplied to the Petitioner. However, a request has been made for supplying relevant documents which shall be considered by the departmental authorities. However, he does not dispute the proposition that once the Petitioner submits his representation regarding revocation of suspension, the same should have been considered by the authorities and non-consideration of such representation is amounts to denial and arbitrary conduct on the part of the authorities.

8. Having heard the learned counsel for the Parties and in view of the facts and circumstances of the present case, this Court dispose of this writ petition by directing the Petitioner to appear before the Opposite Party No.4 on 12th December, 2022 and in the event the Petitioner appears before the Opposite Party No.4, the Opposite Party No.4 shall find out which documents under Annexure-13 are relevant and they will be using the said documents against the Petitioner, copies of such documents shall be provided to the Petitioner. Rest of the documents, the copies have not been provided

to the Petitioner shall not be used against the Petitioner in the disciplinary proceeding. So far as the prayer regarding to change of inquiry officer is concerned, this Court refrain itself to give any opinion on that. However, it is expected that the inquiry officer appointed by the East Coast Railways shall act fairly and judiciously and shall follow the procedure while conducting the disciplinary proceeding in respect of the Petitioner. Further, it is directed that the disciplinary authority on an application filed by the Petitioner seeking adjournment of the proceeding shall accommodate the Petitioner and adjourn the matter till 12th December, 2022.

9. With the aforesaid observation and direction, this writ petition stands disposed of.

