

IN THE HIGH COURT OF ORISSA AT CUTTACK

WPC(OAC) No. 396 of 2017

Upendra Behera

....

Petitioner

-versus-

State of Odisha & Others

....

Opposite Parties

COROM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

23.08.2022

Order No

1. 1. This matter is taken up through Hybrid Mode.
2. 2. Heard Ms. S. Mohanty, learned counsel for the petitioner and Mr. R.N. Mishra, learned A.G.A.
3. 3. The petitioner has filed the present writ petition challenging the order of punishment passed by Opp. party No.4 under Annexure-7 and confirmation of the same by the appellate authority vide order under Annexure-10. The petitioner was saddled with the proceeding under Annexure-3 with the following charges.

Charge

Handler Constable Upendra Behera of CID, Crime Branch, D.D.S hdqrs. Cuttack is charged with gross misconduct and dereliction in duty in that:-

On 24.7.10 a requisition was received from S.I. Tapan Kumar Das of Town P.S district Dhenkanal, for the arrest of Upendra Behera Handler Constable DDS, for his involvement in Dhenkanal Town P.S. Case NO.93 dt.8.5.10 u/s 366(A)/109 IPC. The Handler Constable was although on duty on 24.7.2010, 2 P.M. he absconded from his duty post without any leave or permission or intimation as a result of which he not only paid scant regard to

permission or intimation as a result of which he not only paid scant regard to hampering of Govt. work but also avoided the process of Law willfully being in a disciplined Police force. Thus, his arrest could not be affected.

He is therefore, directed to show cause by 20.8.2010 as to why he should not be dealt with suitably in the event of the charges being held to be proved against him.

Any representation that he wishes to make in this regard shall be duly considered by the authority competent to pass final order before passing such orders.

4. Ms. Mohanty, learned counsel appearing for the petitioner submitted that when the petitioner came to know that his name has been falsely crept up in connection with Dhenkanal Town P.S. Case No.93 of 2010, he absconded from his duty apprehending arrest on 24.7.2010. But it is submitted that the petitioner was never show-caused in the said Dhenkanal Town P.S. Case No.93 of 2010. It is further submitted that vide order dated 11.12.2013 passed in CRLMC No.2359 of 2011 under Annexure-11, the proceeding initiated in the aforesaid Dhenkanal Town P.S. Case No.93 of 2010 has been quashed as against all the accused persons therein. Since it is not in dispute that the petitioner absconded from his duty on 24.7.2010 on coming to know that his name has crept up in the aforesaid Dhenkanal Town P.S. Case No.93 of 2010, this Court is of the view that the order of punishment imposed by the Opp. party No.4 under Annexure-7 needs reconsideration. Therefore, this Court while quashing the order under Annexures-7 & 10, directs the Opp. party No.4 to take a fresh decision. It is observed that while taking such a decision, the order passed by this Court in the aforesaid CRLMC No.2359 of 2011 shall be taken into consideration.

This Court directs the Opp. Party No.4 to take a fresh decision by giving a personal hearing to the petitioner within a period of two months from the date of receipt of this order.

5. With the aforesaid observation and direction, the Writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sangita

