

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.C. (OAC) No.4825 of 2011

Rajanikanta Nayak

....

Petitioner

Mr. Saswat Anubhab, Advocate
on behalf of Mr. B. Parida, Advocate

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. P. K. Mohanty, ASC

**CORAM:
JUSTICE M.S. RAMAN**

ORDER

18.10.2022

Order No.

02.

1. The Original Application No.4825 (C) of 2011 was filed before the Odisha Administrative Tribunal, Cuttack Bench, Cuttack. After its abolition, the same has been transferred to this Court which is renumbered as WPC (OAC) No. 4825 of 2011.

2. The Office Order dated 20th June, 2011 passed by the Principal Secretary to Government, Home Department rejecting Memorial Petition by sustaining the punishment of dismissal from service inflicted by the disciplinary authority, has been challenged by way of an Original Application before the Odisha Administrative Tribunal on the ground that proper opportunity was not granted to the petitioner to cross-examine.

3. The allegation against the petitioner who was working as ASI, Belghar Police Station, District- Kandhamal was that during his incumbency, he misappropriated around 10 kgs of precious stones by manipulating the seizure list and entry in the station diary. The impugned order reveals that sufficient

opportunities were afforded to the petitioner to rebut the charges leveled against him. The learned Tribunal issued notice directing for filing counter *vide* order dated 13.01.2012 pursuant to which counter dated 28.4.2014 was filed. At paragraphs 2, 3 and 4 of the said counter, the following have been stated :

“2. That in reply to Para-6.3 it is humble submitted that, all opportunities were given to the applicant to defend himself by the E.O. The applicant had cross examined all the PWs except PW GR. Nilakantha Pradhani. He had failed to attend the enquiry on 07.08.2001, 12.09.2001, 20.10.2001 and 09.11.2001 for cross examination of Grama Rakhi. The opportunities was given to the applicant for submission of his written defence and list of DWs. But he failed to submit the same. Hence the E.O has submitted his findings. The claim of the applicant is baseless.

3. That in reply to Para-6.4 it is humble submitted that, the proceeding was again conducted according to the existing rules. The claim of the applicant is not justified.

4. That in reply to Para-6.5 it is humble submitted that, the enquiring officer conducted the enquiry of the proceeding in fair and impartial manner giving opportunities to the charged officer to defend himself and submitted the enquiring report on 10.08.02. The claim of the applicant is baseless.”

4. At the time of hearing today, Mr. S. Anubhab on behalf of Mr. B. Parida, learned counsel for the petitioner appeared and submitted that the matter has been infructuous by efflux of time.

5. In view of such submission, the Writ Petition stands disposed of as infructuous.

(M.S. Raman)
Judge