

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.29476 of 2019

Chandra Prava Mohanty

.....

Petitioner

Mr. P.K. Das, Advocate

Vs.

State of Odisha & Ors.

.....

Opposite Parties

Mr. S. Rath, ASC

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE B.P. SATAPATHY

ORDER

08.12.2022

Order No.

10

This matter is taken up through hybrid mode.

2. Heard Mr. P.K. Das, learned counsel appearing for the petitioner and Mr. S. Rath, learned Additional Standing Counsel appearing for the State-opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 20.11.2014 under Annexure-10, by which the disciplinary authority, while imposing penalty of stoppage of one annual increment without cumulative effect has directed the period of suspension is treated as such, and further to quash the order dated 19.03.2015 under Annexure-12, by which the appellate authority has rejected the appeal petition dated 22.12.2014 confirming the punishment imposed by the disciplinary authority, and also to quash the order dated 02.11.2018 passed by the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No.2280(C) of 2015 confirming the punishment imposed by the disciplinary authority as well as the appellate authority.

4. Mr. P.K. Das, learned counsel appearing for the petitioner

contended that the order dated 02.11.2018 passed by the Tribunal in O.A. No.2280(C) of 2015 is an outcome of non-application of mind. More so, the same has been passed without taking into consideration the contentions raised by learned counsel appearing for the petitioner, and that the appellate authority, while disposing of the appeal, has not passed a reasoned order and to that effect no finding has been given by the Tribunal. It is further contended that the order of the Tribunal should be interfered with as there is error apparent on the face of the record. Thereby, the order dated 02.11.2018 passed by the Tribunal in O.A. No.2280(C) of 2015 confirming the order of the appellate authority cannot be sustained in the eye of law and the same should be quashed.

5. Mr. S. Rath, learned Additional Standing Counsel appearing for the State-opposite parties vehemently contended that the Tribunal has come to a definite finding that there was no procedural irregularity in conducting enquiry under Rule-15 of the OCFS (CC&A) Rules, so as to cause interference. Thereby, the Tribunal is well justified in passing the order dated 02.11.2018 in O.A. No.2280(C) of 2015, which should not be interfered with.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that the disciplinary authority, vide order dated 20.11.2014 under Annexure-10, while imposing penalty of stoppage of one annual increment without cumulative effect, has directed that the period of suspension is treated as such. Against the said order, the petitioner preferred appeal and the appellate authority, vide order dated 19.03.2015 under Annexure-12, confirmed the order passed by the disciplinary authority, which reads as follows:

“After careful consideration of the appeal petition dtd 22.12.14 filed by Smt. Chandraprava Mohanty, Ex-CDPO, Dhamnagar (now CDPO, Bhuban) before the Governor of Orissa against W

& CD Department order No.19056/WCD dt. 20.11.2014 imposing the penalties in this Department Proceeding No.18918, dt.03.11.2012 Under Rule 23 of OCS (CCA) Rule 1962, Government have been pleased to reject the appeal petition for being devoid of merit”.

7. On perusal of the aforementioned order, it is made clear that while rejecting the appeal preferred by the petitioner, the appellate authority has not assigned any reason. The petitioner had filed O.A. No.2280(C) of 2015 with specific pleadings in para-6.14 to the following effect:

“6.14. That at the threshold it is submitted that it is well settled that every authority is duty bound to give the reasons to support its order. But from the order this Hon’ble Tribunal will find that the order of rejection of appeal do not carry any reason as to why the same is devoid of any merit and on this score only the appellate order is liable to be quashed”.

As it appears from the aforesaid paragraph, the petitioner had specifically stated that the appellate authority, while passing the order, should have given the reasons, but the Tribunal has not dealt with the said issue, while disposing of O.A. No.2280(C) of 2015, vide order dated 02.11.2018 and passed the following order:

“..... I find that there is no procedural irregularity in conducting the enquiry under Rule-15 of the OCS (CC&A) Rules. Though the applicant had taken stand that on 27.5.2013 i.e. on the date of enquiry, neither the applicant nor her counsel had appeared at the time of enquiry and the enquiry was conducted in their back, but she has not explained why they did not appear during the enquiry. So, she cannot throw blame on the Enquiring Officer, On going through the enquiry report, which is at Annx.5, I find that after assigning cogent reasons ‘the Enquiring Officer had found the applicant guilty of the charges. Hence, neither the punishment imposed by the disciplinary authority nor the, confirmation of the same by the appellate authority needs interference”.

8. On perusal of the aforesaid order, it is made clear that the Tribunal has not applied its mind to the contentions raised by learned counsel appearing for the petitioner, as mentioned above. Thereby, there is gross error apparent on the face of the records so

as to cause interference of this Court. Since the order dated 19.03.2015 under Annexure-12 passed by the appellate authority does not contain any reason, the same cannot be sustained in the eye of law.

9. Reasons being a necessary concomitant to passing an order, the authority can thus discharge its duty in a meaningful manner either by furnishing the same expressly or by necessary reference to those given by the original authority.

10. In *Union of India v. Mohan Lal Capoor*, AIR 1974 SC 87, it has been held that reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject-matter for a decision whether it is purely administrative or quasi-judicial and reveal a rational nexus between the facts considered and conclusions reached. The reasons assure an inbuilt support to the conclusion and decision reached. Recording of reasons is also an assurance that the authority concerned applied its mind to the facts on record. It is vital for the purpose of showing a person that he is receiving justice.

Similar view has also been taken in *Uma Charan v. State of Madhya Pradesh*, AIR 1981 SC 1915, *Patitapaban Pala v. Orissa Forest Development Corporation Ltd. & another*, 2017 (I) OLR 5 and in *Banambar Parida v. Orissa Forest Development Corporation Limited*, 2017 (I) OLR 625.

11. In view of the above, the order dated 19.03.2015 under Annexure-12 passed by the appellate authority suffers from gross

illegality and irregularities in rejecting the appeal without recording any reason and the Tribunal, without taking into consideration the contentions raised by learned counsel for the petitioner, disposed of O.A. No. 2280(C) of 2015. Thereby, this Court is of the considered view that the order dated 19.03.2015 under Annexure-12 passed by the appellate authority and the order dated 02.11.2018 passed by the Tribunal in O.A. No. 2280(C) of 2015 cannot be sustained in the eye of law. Accordingly, they are liable to be quashed and are hereby quashed. The matter is remitted back to the appellate authority to pass appropriate order by affording opportunity of hearing to the petitioner. Needless to say, since the case is of the year 2015, the appellate authority shall dispose of the appeal as expeditiously as possible, preferably within a period of four months from the date of production/communication of this order.

12. With the above observation and direction, the writ petition stands disposed of.

13. Issue urgent certified copy as per rules.

(DR. B.R. SARANGI)
JUDGE

Alok

(B. P. SATAPATHY)
JUDGE