

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.34646 of 2022

Sri Deepak Kumar Choudhury ***Petitioner***
Mr. Baidhar Sahoo, Advocate
-versus-

Registrar Co-operative Societies,
Odisha Heads of Department
Building, Bhubaneswar and others ***Opposite Parties***
Mr. T.K. Pattnaik, ASC

CORAM:
JUSTICE A.K. MOHAPATRA

ORDER
22.12.2022

Order No.

01. 1. This matter is taken up through Hybrid Arrangement (Virtual /Physical Mode).
2. Heard learned counsel for the Petitioner as well as learned Additional Standing Counsel appearing for the State-Opposite Parties.
3. The present writ petition has been filed by the Petitioner with the following prayers:-

“It is therefore prayed that this Hon’ble court may graciously be pleased to;

- i. Admit and allow the writ petition of the petitioner and issue notice to the Opp. Parties;*
- ii. After hearing the parties, to quash / set-aside the Memo No.04, dated 16.07.2018 of President, Odagaon SCS Ltd. under Annexure-6 and also quash / set-aside the Memorandum No.08, dated 10.12.2018 issued by the President, Odagaon SCS Ltd. under Annexure-7;*
- iii. Direction may be issued to the Opp. Parties*

for disbursement of Subsistence Allowance in favour of the petitioner w.e.f. date of suspension i.e. dated 16.07.2018 to till date and further direction may be issued to the Opp. Parties to release the withheld salary of the petitioner form the month of December, 2017 to till 15.07.2018;

- iv. *Direction may be issued to the learned State Co-operative Tribunal, Odisha, Bhubaneswar to dispose of the Service Case No.18 of 2018 and Service Dispute Case No.12 of 2019 within time limit;*

AND

- v. *To pass such other orders /directions as deemed fit and proper.”*

4. Mr. Sahoo, learned counsel for the Petitioner submits that the Petitioner was working as Secretary/Chief Executive of Odagaon SCS Ltd. w.e.f. 04.02.2013 and while working as such, a disciplinary proceeding was initiated against the Petitioner in the year 2018 and after initiation of the disciplinary proceeding, financial power has been withdrawn from him and he is placed under suspension. He further submits that the Petitioner is continuing under suspension as of now, although more than three years even passed in the meantime, the disciplinary proceeding has not been concluded.

5. Learned counsel for the State, on the other hand, submits that a direction be given to the Opposite Party No.3 to conclude the proceeding within a stipulated period of time in accordance with law.

6. Mr. Sahoo, learned counsel for the Petitioner submits that although the Petitioner has been placed under suspension, the Opposite Parties are not paying subsistence allowance as he is entitled to as per Rule-21-A of the Staff Service Rules. Further, in the aforesaid context, learned counsel for the Petitioner relies upon a

judgment of the Hon'ble Supreme Court in the case of *Ajay Kumar Choudhary v. Union of India through its Secretary & Anr., reported in 2015 (I) OLR (SC) – 602* wherein the Hon'ble Supreme Court has observed that the Petitioner cannot be placed for suspension for an indefinite period and the proceeding should be concluded in time bound manner. Further, it is observed by the Hon'ble Supreme Court that in the event the disciplinary proceeding was not concluded within a stipulated period of time, then an employee placed under suspension shall be reinstated in service.

7. Considering the submissions made by the learned counsel for the respective parties, this Court disposes of the writ petition directing the Opposite Party No.3 to conclude the Disciplinary Proceeding pending against the Petitioner within a period of three months from today, failing which the Petitioner shall be immediately reinstated in service. Further, it is directed that on production of certified copy of this order, the authorities are immediately disburse the subsistence allowance as due and admissible as per Rule-22-A of Staff Service Rules within a period of four weeks hence.

8. Urgent certified copy of this order be granted on proper application.

(*A.K. Mohapatra*)
Judge