IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10006 of 2026
ODHC010212142026

Swayandipta Sahoo .... ***Petitioner***
Mr. S.C. Sahoo, Adv.

-versus-

State of Odisha and Others .... ***Opposite Parties***
Mr. S.P. Das, ASC

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

Order No. **29.10.2026**

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

2. Heard learned counsel for the parties.

3. The present Writ Petition has been filed inter alia with the following prayer:-

> *"Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon'ble Court may graciously be pleased to:*
>
> *(i) quash the Order of punishment, dated 02.02.2024 and Order, vide Annexure-4 and the Order, dated 13.01.2026 passed by the Appellate Authority vide Annexure-8, and thereby treat the period of suspension, i.e. 09.07.2021 to 29.01.2024 as duty for all purpose and extend the benefits as due and admissible, in view of the decisions in the case of Bani Bhusan Dash-Vrs.- State of Odisha & Others, reported in 2021(III)ILR-CUT-528 and Dr. Smita Mohanty-Vrs.- State of Odisha & Others[WPC(0A) No.2585/2016], vide Annexure-6;*
>
> *(ii) pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice."*

4. It is contended that while disposing the proceeding so initiated vide Memorandum dated 12.05.2022 under Annexure-1 vide order dated 02.02.2024 under Annexure-4, the Disciplinary Authority-O.P. No.3 imposed the punishment of stoppage of 3(three) increments without cumulative effect. But while imposing such a punishment which is in the nature of a minor punishment as provided under Rule-13 of the OCS(CCA) Rules, 1962, the period of suspension was treated as such.

4.1. It is contended that in view of the decision rendered by this Court in the case of ***Bani Bhusan Das Vrs. State of Odisha and Others*** (W.P.(C) No.7635 of 2019 decided on 28.10.2021), so followed by this Court in the case of ***Dr. Smita Mohanty Vrs. State of Odisha and Others*** (W.P.C(OA) No.2585 of 2016, while imposing a minor punishment, the period of suspension could not have been treated as such, instead of treating the same as duty for all purposes. This Court in Para 10 of the decision in the case of ***Bani Bhusan Dash*** has held as follows:-

> *"10. Coming to the 3rd punishment, as imposed in the impugned order dated 15.09.2018 under Annexure-8, i.e. treating the period of suspension as leave due and admissible, no doubt the authorities are empowered to place an employee under suspension in contemplation or pending drawal of a proceeding exercising their power under Rule-12 of the OCS (CCA) Rules, 1962. Accordingly, they have to give a conclusion the manner to treat the period of suspension at the time of passing final order in the departmental proceeding. The*

authorities are to keep the suspension as such or to revoke the said suspension order by revising the period of suspension as duty, as because honouring nonengagement certificate for the relevant period, the authorities have sanctioned subsistence allowance to the delinquent during the period of suspension. In the instant case, the authority, after taking a decision not to treat the period of suspension as such, is not empowered to take a decision to treat the period of suspension as leave due and admissible, when the petitioner did not ask for any leave during the said period of suspension. Regularization of a particular period treating as leave period of different kinds of leave, as provided under Orissa Leave Rules, can be considered only when the petitioner/employee concerned seeks leave from the competent authority for certain period under certain circumstances. The authority cannot initiate a proposal from its side in assumption of leave application from the delinquent or employee concerned to treat the period as leave due and admissible affecting the delinquent by way of consuming accrued leave in favour of the employee concerned without any fault on his part. As the authority has come to a conclusion to punish the petitioner only with a minor penalty, the decision of the competent authority to place the petitioner under suspension on the allegation of grave misconduct does not appear to be satisfactory, rather it seems that the order of suspension was issued without application of mind or in a routine or mechanical manner. As such, no review of suspension was held, as per the guidelines. Under such circumstances, after concluding the departmental proceeding by imposing minor penalty of stoppage of one increment without cumulative effect, the authority should not have treated the period of suspension in any manner other than the duty affecting the service condition of the petitioner."

4.2. Similarly, this Court in the case of ***Dr. Smita Mohanty*** has held as follows in Para 6:-

"6. Having heard learned counsel appearing for the Parties and taking into account the materials available on record, it is found that while disposing the proceeding the Petitioner was imposed with a minor punishment i.e. stoppage of two increments without cumulative effect. On the face of such punishment imposed and in view of the decisions as cited supra, the period of suspension should not have been treated as such instead of treating the same as

duty. Therefore, this Court is inclined to quash the order so far as it relates to treat the period of suspension as such. While quashing the same, this Court directs the Opp. Party No. 1 to treat the period of suspension as duty and extend the financial benefit as due and admissible in favour of the Petitioner. Such an exercise shall be undertaken and completed by the O.P. No 1 within a period of two (2) months from the date of receipt of this order."

4.3. It is further contended that even though petitioner preferred an appeal before Opp. Party No.2, but the Appellate Authority without proper appreciation, dismissed the appeal vide order dated 13.01.2026 under Annexure-8. It is accordingly contended that since petitioner was imposed with a minor punishment of stoppage of 3(three) increments without cumulative effect, on the face of such punishment being imposed, the period of suspension could not have been treated as such.

4.4. Accordingly, placing reliance on the decision in the case of ***Bani Bhusan Das*** so followed in the case of ***Dr. Smita Mohanty***, learned counsel for the petitioner contended that period of suspension which has been treated as such, be treated as duty for all purposes with quashing of the same. It is however contended that, petitioner does not have any grievance with regard to withholding of 3(three) annual increments without cumulative effect, so imposed vide the impugned order under Annexure-4, confirmed vide order under Annexure-8.

5. Even though notice of the Writ Petition has been issued since 10.04.2026, but no counter affidavit has been filed as yet. Learned Addl. Standing Counsel however contended that since order passed by the Disciplinary Authority under Annexure-4 has been confirmed by the Appellate Authority vide order under Annexure-8, the matter requires an adjudication.

5.1. It is also contended that taking into account the nature of charges framed under Annexure-1, petitioner has been rightly imposed with the punishment.

6. Having heard learned counsel for the parties and considering the submissions made, it is found that in the proceeding initiated against the petitioner vide Memorandum dated 12.05.2022 under Annexure-1, Opp. Party No.3 being the Disciplinary Authority while disposing the proceeding vide order dated 02.02.2024 under Annexure-4, imposed the following punishment:-

> *"(1) withheld 3 increments without cumulative effect.*
>
> *(2) suspension period is treated as such."*

6.1. As found appeal filed by the petitioner against such order was rejected by Opp. Party No.2 vide order dated 13.01.2026 under Annexure-8. However, it is found that the Disciplinary Authority imposed the punishment of stoppage of 3(three) increments without cumulative effect, which is a minor punishment as prescribed under Rule-13 of the OCS(CCA) Rules,

1962. Placing reliance on the decision in the case of ***Bani Bhusan Das*** so followed in the case of ***Dr. Smita Mohanty*** so cited (supra), it is the view of this Court that while imposing such minor punishment, the period of suspension could not have been treated as such.

6.2. Therefore, this Court while interfering with the impugned order dtd.02.02.2024, so confirmed vide order dated 13.01.2026, so far as treating the period of suspension as such, direct Opp. Party No.3 to treat the period of suspension of the petitioner as duty for all purposes and extend the benefit as due and admissible in favour of the petitioner. This Court directs Opp. Party No.3 to complete the entire exercise within a period of 3(three) months from the date of receipt of this order.

7. The Writ Petition stands disposed of accordingly.

(Biraja Prasanna Satapathy)
Judge

Basudev

Signature Not Verified
Digitally Signed
Signed by: BASUDEV SWAIN
Designation: SENIOR STENOGRAPHER
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 02-Nov-2026 10:26:36