IN THE HIGH COURT OF ORISSA AT CUTTACK
WP(C) No. 33678 of 2026
CNR No. ODHC010789362026

Surendra Kumar Bihari ..... ***Petitioner***
Mr. S.K. Samal, Advocate

-versus-

State of Odisha & Ors. ..... ***Opposite Parties***
Dr. P.P. Behera, ASC

CORAM:
THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY
ORDER
06.11.2026

Order No. 01

1. This matter is taken up through hybrid mode.

2. Even though the matter was listed under the heading of 'fresh admission', but on the consent of the learned counsel appearing for the Parties, the same was heard and disposed of by the present order.

3. Heard Mr. S.K. Samal, learned counsel appearing for the Petitioner and Dr. P.P. Behera, learned Addl. Standing Counsel appearing for the Opp. Parties.

4. The present writ petition has been filed inter alia with the following prayer:-

> *"Therefore, in view of the above stated facts and circumstances, it is humbly prayed that this Hon'ble Court may be graciously pleased to issue notice to the Opp. Parties and call for the entire record of the Disciplinary Proceeding initiated vide Memorandum No. 1349, dated 25.06.2015 and after hearing the parties may be pleased to quash the order of punishment dated 16.12.2020 of the Collector,*

Nayagarh, O.P No. 4, under Annexure-7, in the Departmental Proceeding which was initiated against him vide Memorandum No. 1349, dated 25.06.2015 and also to quash the order dated 23.04.2026 of the Appellate Authority, O.P No.3, under Annexure-10.

And/or to pass such other order(s) as this Hon'ble Court deem just and proper in the facts of the case.

And for this act of kindness, the petitioner shall, as in duty bound, ever pray."

5. Learned counsel appearing for the Petitioner contended that in the proceeding initiated against the Petitioner, though punishment was imposed vide order dtd.16.12.2020 under Annexure-14, but the same was never communicated to the Petitioner nor prior to that any 2nd show-cause was issued to the Petitioner, proposing the punishment. Accordingly, Petitioner could not file the appeal within the stipulated time period.

5.1. Only after coming across the order, Petitioner moved the appellate authority by filing the appeal on 04.06.2025 under Annexure-15 series along with an I.A., indicating therein that since the impugned order passed by the disciplinary authority was never communicated to the Petitioner, he could not prefer the appeal within the period of limitation.

5.2. It is contended that even though such a plea was taken before the appellate authority, but the appellate authority only on the ground of delay, rejected the same vide the impugned order dtd.23.04.2026 under Annexure-17.

5.3. Learned counsel appearing for the Petitioner contended that since in the proceeding in question, Petitioner has been imposed with various punishments, which includes recovery of Rs.4,80,663/- and stoppage of two (2) increments without cumulative effect, Petitioner will be seriously prejudiced, if the appellate authority will not consider the appeal on merit. Accordingly, it is contended that with quashing of the impugned order passed by the appellate authority on 23.04.2026 under Annexure-17, the appellate authority be directed to decide the appeal on merit.

6. Learned Addl. Standing Counsel on the other hand contended that since the proceeding was disposed of vide order dtd.16.12.2020, the appeal should have been filed in terms of the provisions contained under Rule 24 of the OCS (CCA) Rules, 1962.

6.1. Since the appeal has been filed admittedly after more than 4 (four) years of the order of punishment, no illegality or irregularity can be found with the impugned order so passed by the appellate authority under Annexure-17.

7. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that in the proceeding so initiated against the Petitioner, the same was disposed of by the disciplinary authority-Opp. Party No. 4 vide order dtd.16.12.2020 under Annexure-14. In the said proceeding the following punishments were imposed on the Petitioner:-

> *"1. The cost of 1384 bags of cement amounting to Rs.4,80,663/- will be realized from Sri Surendra Kumar Bihari, the delinquent officer who was the person in charge of stock of cement.*

2. Sri Surendra Kumar Bihari, the delinquent officer is warned not to commit such misconduct in future.

3. Two increments stopped without cumulative effect.

4. He shall not be entrusted in any cash transaction in future during his service career."

7.1. As found, Petitioner preferred the appeal before the appellate authority-Opp. Party No. 3 on 06.06.2025 under Annexure-15. In the said appeal, a specific stand was taken by the Petitioner that the impugned order passed by the disciplinary authority was never communicated nor any 2nd show-cause was issued prior to imposing such punishment. But the appellate authority without proper appreciation of those grounds of appeal, rejected the appeal only on the ground of delay vide his order dt.23.04.2026 under Annexure-7.

7.2. In view of the fact that the appellate authority has not properly appreciated the grounds of appeal taken by the Petitioner and the admitted fact that Petitioner has been imposed with various punishments vide order dt.16.12.2020, this Court is of the view that the appellate authority is required to dispose of the appeal on merit.

7.3. Therefore, for the present, this Court while quashing the impugned order dtd.23.04.2026 so passed by Opp. Party No. 2 under Annexure-17, directs the said authority to decide the appeal on merit and by giving an opportunity of hearing to the Petitioner.

8. The writ petition accordingly stands disposed of.

(BIRAJA PRASANNA SATAPATHY)
Judge

Signature Not Verified
Digitally Signed
Signed by: SNEHANJALI PARIDA
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 09-Nov-2026 15:48:27