IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 2589 OF 2023

State of Odisha ……. ***Appellant***

-Versus-

Artatran Mallick ……. ***Respondent***

Advocates appeared:

For Appellant : *Mr. Siba Narayan Biswal, Additional Standing Counsel*

For Respondent : *Mr. P.K. Mishra, Advocate*

CORAM :

MR. JUSTICE K.R. MOHAPATRA
MR. JUSTICE SANJAY KUMAR MISHRA

Heard and Disposed of on 10.04.2026

JUDGMENT

By the Bench;

1. State of Odisha as the Appellant seeks to assail the order dated 29.11.2022, passed by this Court in WP(C)(OA) No.1589 of 2018 in this Intra Court Appeal.

2. Mr. Biswal, learned Additional Standing Counsel representing the Appellant submits that the Respondent was an accused in commission of offence involving moral turpitude. Hence, Capital P.S. Case No.101 of 2005 under Sections 467/ 468/ 471/ 420/ 167/ 120-B

of IPC was instituted against the Respondent when he was working as Tahasildar at Jagannath Prasad in the District of Ganjam.

3. The criminal case was set in motion by the Crime Branch. The Respondent was arrested. Since the Respondent remained in custody exceeding 48 hours, he was placed under suspension w.e.f. the date of arrest, i.e., 20.02.2010 vide order dated 25.03.2010 by the disciplinary authority.

4. Subsequently, the Respondent filed O.A.No.3309(C) of 2011 before the State Administrative Tribunal (for brevity 'the Tribunal') for revocation of the order of suspension.

5. The said O.A. was disposed of vide order dated 03.01.2013 with a direction to the State-Appellant to consider the case of the Respondent for revocation of the order of suspension in terms **of** Rule 12(5) of the Orissa Civil Services (Clarification, Control & Appeal) Rules, 1962, (for brevity, 'the OCS (CCA) Rules'). Pursuant to the direction of the Tribunal, the Respondent was reinstated in service vide order dated 19.03.2013 passed by the Revenue & Disaster Management Department, Government of Odisha. A Disciplinary Proceeding vide D.P. No.6 of 2013 was also initiated against the Respondent under Rule-15 of the OCS (CCA) Rules. The articles of charges levelled against the Respondent vide Memo No. IIIE-PD-III-33/2012/671/R (CS), dated 19.03.2013 are as under:-

> 1. Misutilisation of power beyond jurisdiction with mala fide intention.
>
> 2. Manipulation, forgery, fraudulent activities and framing incorrect records.

3. Illegal recording of Government land in favour of private persons which leads to future litigations for Government.

4. Doubtful integrity.

5. Misconduct.

6. The Additional District Magistrate, Bhubaneswar was appointed as the Enquiry Officer to enquire into the charges. The Enquiry Officer submitted his report on 25.05.2015 recommending exoneration of the Respondent from all the charges levelled against him. However, the report was not accepted by the Disciplinary Authority and a fresh enquiry was directed. After fresh inquiry, the Enquiry Officer submitted his report on 01.12.2015 holding as under:-

> *"I am therefore to submit that the Delinquent Officer Sri Artatran Mallick had verified the Yaddasts and disposed the same on verification of records & reports. I find no infringement of procedure has been caused by him in disposing the land records."*

7. However, the Disciplinary Proceeding initiated against the Respondent was not concluded on the basis of such fresh report of the Enquiry Officer. Hence, the Respondent moved the Orissa Administrative Tribunal in O.A. No.2036 of 2016, which was disposed of vide order dated 18.05.2017 with a direction to complete the Disciplinary Proceeding in all respect within a period of three months from the date of receipt of the said order. But, the Disciplinary Proceeding could not be concluded within the stipulated period.

8. Mr. Biswal, learned Additional Standing Counsel further submits that cognizance in the Criminal Case initiated against the Respondent was taken by the learned S.D.J.M., Bhubaneswar on 17.07.2013. However, the said Criminal Proceeding has been stayed by this Court vide order dated 23.06.2015 filed by one Nisamani Sahoo, a co-accused, in CRLMC No.2761 of 2015.

9. Subsequently, the Respondent filed O.A. No.1589 of 2018 to quash the memorandum of charges issued against him on 19.03.2013, with a further prayer to regularise his period of suspension and to release pay as per 7th Pay Commission recommendation. On abolition of the Tribunal, the said O.A. was transferred to this Court and was registered as WP(C)(OA) No.1589 of 2018.

10. This Court, however, taking note of the facts and circumstances of the case, vide order dated 29.11.2022 disposed of the said writ petition by quashing the Departmental Proceeding and further directed to take all effective steps to regularise the period of suspension and to release the financial benefit as due and admissible in favour of the Respondent including the benefit of promotion, if he is otherwise eligible. Learned Single Judge also directed to complete the entire exercise within a period of four months from the date of receipt of the said order. The State of Odisha, being aggrieved by the said order, has filed this Writ Appeal.

11. Mr. Biswal, learned Additional Standing Counsel submits that since the charges levelled against the Respondent in the Disciplinary Proceeding are serious in nature, learned Single Judge should not have quashed the Departmental Proceeding. In support of his case, he

relied upon the case of ***Deputy Registrar, Cooperative Societies, Faizabad Vs. Sachindra Nath Pandey and others*** reported in *(1995) 3 SCC 134*, wherein, it is held as under:-

> *"7. On a perusal of charges, we find that the charges are very serious. We are, therefore, not inclined to close the matter only on the ground that about 16 years have elapsed since the date of commencement of disciplinary proceedings, more particularly when the appellant alone cannot be held responsible for this delay. So far as the merits are concerned, we regret to say that the High Court has not dealt with the submissions- and facts in support of the submission of the appellant- that in spite of being given a number of opportunities the first respondent has failed to avail of them. If the appellant's allegations are true then the appellant cannot be faulted for not holding a regular inquiry (recording the evidence of witnesses and so on). The High Court has assumed, even without referring to Regulation 68 aforesaid that holding of an oral inquiry was obligatory. Indeed, one of the questions in the writ petition may be the interpretation of Regulation 68. On facts, the first respondent has his own version. In the circumstances, the writ petition could not have been allowed unless it was held that the appellant's version of events is not true and that the first respondent's version is true. In the circumstances, we have no alternative but to set aside the order under appeal and remit the matter to the High Court once again for disposal of the writ petition afresh in the light of the observations made herein. Since the matter is a very old one it is but appropriate that the matter is dealt with expeditiously. Perhaps, it would be appropriate if the Court looks into the records relating to the disciplinary proceedings also."*

12. He, therefore, submits that learned Single Judge committed gross error in quashing the Disciplinary Proceeding and exonerating the Respondent from all charges levelled against him. He, further, submits that once a Disciplinary Proceeding is initiated, it should meet its logical end. In the instant case, although two consecutive Inquiry Reports were filed exonerating the Petitioner from the charges levelled against him, but the same were not accepted by the Disciplinary Authority. Further, the Criminal Proceeding initiated against the Respondent has been stayed by this Court at the instance of a co-accused namely, Nisamani Sahoo. In such scenario, the learned Single Judge should not have quashed the Disciplinary Proceeding and should have allowed it to be concluded in accordance with law.

13. Mr. Mishra, learned Counsel for the Respondent vehemently objects to the same. It is his submission that although Disciplinary Proceeding **was** initiated on certain charges, but the Additional District Magistrate, Bhubaneswar was appointed as the Enquiry Officer. On a thorough enquiry following due procedure, he submitted report recommending that the Respondent should be exonerated from all the charges levelled against him. Being not satisfied, the Disciplinary Authority directed for fresh inquiry into the charges levelled against the Respondent. But the Enquiry Officer submitted his report opining that the Respondent cannot be held guilty for the alleged irregularities. Hence, the Enquiry Officer on fresh enquiry also recommended for exonerating the Respondent from all the charges levelled against him in the Disciplinary

Proceeding. Stay of the Criminal Proceeding should not stand as a bar or bottleneck for the Disciplinary Authority to conclude the Disciplinary proceeding within reasonable period, more particularly when the Tribunal vide order dated 18.05.2017, while disposing of O.A. No.2036 of 2016, directed to complete the Disciplinary Proceeding in all respect within a period of three months from the date of receipt of said order. But, neither the Disciplinary Proceeding was concluded within the said period nor was any prayer made for extension of time to conclude the Disciplinary Proceeding.

14. After submission of two consecutive enquiry reports exonerating the Respondent from all the charges, the Disciplinary Authority had no other option than to drop the Disciplinary Proceeding. If he was not satisfied with the report of the Enquiry Officer, he could have recorded reasons for the same and proceeded accordingly. But, he failed to act in accordance with law.

15. Further, since frivolous charges were levelled against the Respondents, he suffered mental agony due to protracted Disciplinary Proceeding without any basis. The Respondent had no contribution for not concluding the disciplinary proceeding within a reasonable period.

16. Learned Single Judge while quashing the disciplinary proceeding also relied upon the case law in ***State of A.P. Vs. Radhakishan*** reported in (1998) 4 SCC 154, wherein it is held as under:-

> *"19. It is not possible to lay down any predetermined principles applicable to all cases and in all situations where there is delay in*

concluding the disciplinary proceedings. Whether on that ground the disciplinary proceedings are to be terminated each case has to be examined on the facts and circumstances in that case. The essence of the matter is that the court has to take into consideration all the relevant factors and to balance and weigh them to determine if it is in the interest of clean and honest administration that the disciplinary proceedings should be allowed to terminate after delay particularly when the delay is abnormal and there is no explanation for the delay. The delinquent employee has a right that disciplinary proceedings against him are concluded expeditiously and he is not made to undergo mental agony and also monetary loss when these are unnecessarily prolonged without any fault on his part in delaying the proceedings. In considering whether the delay has vitiated the disciplinary proceedings the court has to consider the nature of charge, its complexity and on what account the delay has occurred. If the delay is unexplained prejudice to the delinquent employee is writ large on the face of it. It could also be seen as to how much the disciplinary authority is serious in pursuing the charges against its employee. It is the basic principle of administrative justice that an officer entrusted with a particular job has to perform his duties honestly, efficiently and in accordance with the rules. If he deviates from this path he is to suffer a penalty prescribed. Normally, disciplinary proceedings should be allowed to take their course as per relevant rules but then delay defeats justice. Delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse considerations."

17. In the aforesaid case law, Hon'ble Supreme Court confirmed the order of the Tribunal in quashing the charge memo leveled against the Respondent therein. In the instant case, delay in disposal of the disciplinary proceeding was not explained by the State in spite of consecutive reports of the Enquiry Officer exonerating the Respondent from the charges leveled against him. No Counter Affidavit was filed by State-Appellant either before the Tribunal or before this Court explaining the delay in concluding the disciplinary proceeding in spite of direction of the Tribunal. In that view of the matter, Mr. Mishra, learned counsel for the Respondent submitted that no illegality has been committed by learned Single Judge in quashing the disciplinary proceeding.

18. Heard learned Counsel for the Parties.

19. Perused the materials placed before us along with the case law relied upon.

20. Criminal proceeding was initiated against the Respondent for alleged commission of certain offences under Sections 467/ 468/ 471/ 420/ 167/ 120-B of IPC. Cognizance of the offence alleged against the Respondent was also taken by learned S.D.J.M., Bhubaneswar. However, the said criminal proceeding has been stayed by this Court in CRLMC No.2761 of 2015 filed by one Nisamani Sahoo, who is also a co-accused in the said criminal proceeding.

21. From the submission made by Mr. Biswal, learned Additional Standing Counsel, it appears that disciplinary proceeding was also initiated against the Respondent alleging serious misconduct. The

Additional District Magistrate, Bhubaneswar being the Inquiry Officer submitted his report on 25.05.2015 recommending exoneration of the Respondent from all the charges leveled against him. Being not satisfied, the disciplinary authority directed for fresh enquiry, who submitted report stating that the Respondent has no role to play in the alleged creation of fraudulent records and misconduct. In spite of the same, the disciplinary authority did not proceed with the matter to conclude the disciplinary proceeding either by conducting a fresh enquiry or by dropping the disciplinary proceeding.

22. The Respondent had also filed O.A. No.2306 of 2016, which was disposed of by the Tribunal vide order dated 18.05.2017 directing the State Government to conclude the disciplinary proceeding in all respect within three months from the date of receipt of the said order. The State-Appellant neither prayed for extension of time by filing appropriate application for conclusion of disciplinary proceeding nor concluded the disciplinary proceeding in compliance with the aforesaid direction. The said order passed by the Tribunal was also not challenged by the State-Appellant**.**

23. Finding no other alternatives, the Respondent filed O.A. No.1589 of 2018 to quash the charge memo and to regularize his services. He also prayed for releasing his financial service benefit. The O.A. was subsequently transferred to this Court after abolition of the Tribunal and was registered as WP(C)(OA) No.1589 of 2018.

24. Learned Single Judge taking note of the above and relying upon the case law in ***State of A.P. Vs. Radhakishan*** (supra) directed to quash the disciplinary proceeding.

25. There is no material on record to show that the Respondent had attributed to the delay in disposal of the disciplinary proceeding. There is also no explanation by the State-Appellant in concluding the disciplinary proceeding within a reasonable period. In the case of ***State of A.P. Vs. Radhakishan*** (supra), Hon'ble Supreme Court has categorically observed that while entertaining the application for quashing a disciplinary proceeding, the Court should take into consideration the gravity of offence alleged as well as the conduct of the party.

26. In the instant case, there is no allegation by the State-Appellant that the Respondent had contributed for delay in disposal of the disciplinary proceeding. The Enquiry Officer submitted consecutive reports exonerating the Respondent from all the charges leveled against him in the disciplinary proceeding. Moreover, the Tribunal vide order dated 18.05.2017, while disposing of O.A. No.2036 of 2016 directed to complete the Disciplinary Proceeding in all respect within a period of three months from the date of receipt of said order. But, neither the Disciplinary Proceeding was concluded within the said period nor was any prayer made for extension of time to conclude the Disciplinary Proceeding. Order of the Tribunal in O.A. No. 2036 of 2016 was never challenged and thus attained its finality. Further, the case law relied upon by Mr. Biswal, learned Additional Standing Counsel in ***Deputy Registrar, Cooperative Societies*** *(supra),* Hon'ble Supreme Court did not interfere on the ground that delay in disposal of the disciplinary proceeding was due to the Respondent therein. Thus, the said case law is of no assistance to the case of the Appellant.

27. Taking into consideration the facts and circumstances of the case as stated above and the case laws, learned Single Judge came to a categorical conclusion that the disciplinary proceeding should be quashed. We find no infirmity in the said order.

28. Accordingly, the Writ Appeal being devoid of any merit stands dismissed in the facts and circumstance of the case there shall be no order as to cost.

Urgent certified copy of this judgment shall be granted as per rules.

(K.R. Mohapatra)
Judge

(S.K. Mishra)
Judge

Orissa High Court, Cuttack,
Dated 10th April, 2026/Banita

Signature Not Verified
Digitally Signed
Signed by: BANITA PRIYADARSHINI PALEI
Designation: SR. STENOGRAPHER
Reason: AUTHENTICATION
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 15-Apr-2026 17:01:28