IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.374 of 2026

In the matter of an application under Article 226 & 227 of the Constitution of India, 1950.

.....

Mukteswar Kathar .... ***Petitioner***

-versus-

State of Odisha & Others .... ***Opp. Parties***

For Petitioner : *Ms. S. Dash, Advocate*

For Opp. Parties : *Mr. S.P. Das, ASC*

PRESENT:

THE HONBLE JUSTICE BIRAJA PRASANNA SATAPATHY

Date of Hearing: 09.04.2026 and Date of Judgment: 09.04.2026

Biraja Prasanna Satapathy, J.

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

2. Heard learned counsel appearing for the Parties.

3. Pursuant to the order dtd.07.03.2026, learned Addl. Standing Counsel basing on the instruction contended that the proceeding has not yet been disposed and only enquiry report has been submitted and three months' time be allowed to dispose of the proceeding in accordance with law.

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

> *" In view of the facts and circumstances stated above, the Petitioner respectfully prays that this Hon'ble Court may be pleased to:*
>
> *i. Admit the writ petition;*
>
> *ii. Issue Rule Nisi calling upon the Respondents to show cause as to why the writ petition shall not be allowed;*
>
> *After hearing the parties and perusing the records, issue a writ in the nature of certiorari or any other appropriate writ, order or direction quashing the disciplinary proceedings initiated vide Order No. 12019/T dated 17.07.2001 (Annexure-1), the decision to re-enquire vide Letter No. 6342/T dated 08.09.2009 (Annexure-2), and the appointment of Inquiry Officer vide Letter No. 9759 dated 03.09.2024 (Annexure-3);*
>
> *iv. Grant such other relief(s) as this Hon'ble Court may deem fit and proper in the interest of justice, equity, and good conscience;*
>
> *AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY."*

5. It is contended that even though Petitioner while in service the proceeding was initiated vide Memorandum dtd.14.06.2001 under Annexure-1, but

the same was never disposed of prior to retirement of the Petitioner on 31.07.2006.

5.1. It is also contended that even though Petitioner retired on 31.07.2006, but because of pendency of the proceeding he was only sanctioned with the provisional pension and all his retiral benefits were kept withheld. In spite of such long wait, when the proceeding was never disposed of, the present Writ Petition has been filed for quashing of the same, on the ground of delay and having no fault lies with the Petitioner.

6. In support of the submission, reliance was placed to the decision of the Hon'ble Apex Court in the case of ***State of Andhra Pradesh vs. N. Radhakishan*** reported in ***AIR 1998 SC-1833***. Hon'ble Apex Court in Para-19 & 20 in the decision in the case of **N. *Radhakishan*** has held as follows:-

> *"**19.** It is not possible to lay down any pre-determined 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 relevant factors and to balance and weight 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 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*

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 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 its 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 or when there is proper explanation for the delay in conducting the disciplinary proceedings. Ultimately, the court is to balance these two diverse consideration.

20. *In the present case we find that without any reference to records merely on the report of the Director General, Anticorruption Bureau, charges were framed against the respondent and ten others, all in verbatim and without particularizing the role played by each of the officers charged. There were four charges against the respondent. With three of them he was not concerned. He offered explanation regarding the fourth charge but the disciplinary authority did not examine the same nor did it choose to appoint any inquiry officer even assuming that action was validly being initiated under 1991 Rules. There is no explanation whatsoever for delay in concluding the inquiry proceedings all these years. The case depended on records of the Department only and Director General, Anti-Corruption bureau had pointed out that no witnesses had been examined before he gave his report. The Inquiry Officers, who had been appointed on after the other, had just to examine the records to see if the alleged deviations and constructions were illegal and unauthorised and then as to who was responsible for condoning or approving the same against the bye-laws. It is nobody's case that respondent at any stage tried to obstruct or delay the inquiry proceedings. The Tribunal rightly did not accept the explanations of the state as to why delay occurred. In fact there was hardly any explanation worth consideration. In the circumstances the Tribunal was justified in quashing the charge memo dated July 31,*

1995 and directing the state to promote the respondent as per recommendation of the DPC ignoring memos dated October 27, 1995 and June 1, 1996. The Tribunal rightly did not quash these two later memos."

6.1. Placing reliance on the aforesaid decision, it is contended that since Petitioner has no fault with regard to pendency of the proceeding for around 25 years, the proceeding is required to be quashed and with a direction on the Opposite Parties to release all the retiral benefits of the Petitioner as due and admissible along with interest.

7. Mr. S.P. Das, learned Addl. Standing Counsel for the State basing on the instruction as indicated hereinabove contended that since enquiry report has already been submitted if three months' time will be allowed, the proceeding can be disposed of.

8. Having heard learned counsel appearing for the Parties and considering the submissions made, it is found that Petitioner while in service the proceeding in question are initiated vide Memorandum dtd.14.06.2001. Even though the proceeding was initiated on 14.06.2001, but the same was never disposed of prior to retirement of the Petitioner on 31.07.2006 nor it was disposed of within a reasonable time.

8.1. Accordingly, the Writ Petition has been filed with a prayer to quash the proceeding, because of inordinate delay and without having any fault of the Petitioner.

8.2. From the instruction so provided, it is found that the enquiry has only been completed in respect of the proceeding initiated in the year 2001 as against the Petitioner who was working as a Chowkidar in the Office of RTO, Sambalpur. Since no document is available nor provided showing any delay caused by the Petitioner with regard to disposal of the proceeding, this Court placing reliance on the decision as cited (supra) is inclined to quash the proceeding dtd. 14.06.2001 so issued under Annexure-1.

8.3. While quashing the proceeding dtd.14.06.2001 under Annexure-1, this Court directs Opposite Parties to release the retiral benefits as due and admissible in favour of the Petitioner within a period of two (2) months from the date of receipt of this order along with interest @ 6% per annum all through.

9. Accordingly, the Writ Petition stands disposed of. Instruction produced in Court be kept in record.

(Biraja Prasanna Satapathy)
Judge

Orissa High Court, Cuttack
Dated the 9th April, 2026/Subrat

Signature Not Verified
Digitally Signed
Signed by: SUBRAT KUMAR BARIK
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 21-Apr-2026 11:04:09