

**IN THE HIGH COURT OF ORISSA AT CUTTACK****W.P.(C) No.13188 of 2014**

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

Sharat Kumar Mohanty

....

Petitioner

-versus-

1. Cuttack Development Authority, represented through its Secretary, Cuttack
2. Addl. Chief Secretary to Government of Odisha, Housing and Urban Development Department-cum-Chairman, Cuttack Development Authority, Cuttack
3. Vice Chairman, Cuttack Development Authority, Cuttack

Opposite Parties

For Petitioner : Mr. S.K Das, Advocate

For Opposite Parties : Mr. D. Mohapatra,
Sr. Advocate
Mr. A.K. Pradhan, Advocate

**CORAM:
JUSTICE V. NARASINGH**

DATE OF FINAL HEARING : 17.11.2025

DATE OF JUDGMENT : 13.03.2026



V. Narasingh, J.

The Petitioner, Junior Assistant under the Opposite Party Cuttack Development Authority has filed the writ application assailing the order of punishment dtd. 10.02.2012 passed by the Vice Chairman, Cuttack Development Authority (Opp. Party No.3) under Annexure-16 and the consequential order passed by the Appellate Authority dtd. 03.07.2014 under Annexure-20, with a further prayer to regularize his entire service period and to grant him all consequential service and financial benefits.

The prayer in the writ petition is culled out hereunder for reference:-

“Under the above circumstances, it is therefore humbly prayed that this Hon’ble Court be graciously pleased to quash the order of punishment imposed on the petitioner dated 10.2.2012 under Annexure-16 and the consequential order of the appellate authority communicated on 3.7.2014 under Annexure-20.

And further the Hon’ble Court be pleased to direct the opp. parties to regularize the services of the petitioner and to grant him the consequential service and financial benefits.



And/or pass any other appropriate writ/writs, direction/ directions, order/orders in the fitness of the case;

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1. The uncontroverted facts run thus:-

In the year 1990, the Petitioner was appointed as Junior Assistant under the Cuttack Development Authority (CDA) on DLR basis and his services were regularized on 14.12.1994.

1-A. The Petitioner was working as Bench Clerk to the Secretary, CDA with effect from dt.01.03.2005. While working as such, it is alleged that he did not put up 205 number of files relating to U.C. cases (unauthorized construction) files before the Secretary on the scheduled dates during the year 2005 and 2006. And, it is further alleged that the Petitioner also did not take steps to put up 1315 numbers of unauthorized construction cases filed before the Secretary, which were pending since 1984 to 2005, during his period of working as Bench Clerk.

The Petitioner was placed under suspension vide Office Order No.9250 dated 24.04.2007 (Annexure-1).

1-B. Alleging these irregularities and negligence in duty, disobedience of orders and 'misconduct', a



memorandum of charges along with imputations dated 02.06.2007 at Annexure-2 was served on the Petitioner, and by order dated 12.09.2007 at Annexure-6, the Enquiry Officer was appointed for conducting enquiry into the charges at Annexure-2.

It is submitted that the proceeding was initiated against the Petitioner under Rule 15(9)¹ of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962.

1-C. Mr. Sameer Ku. Das, learned counsel states that the Petitioner was neither supplied with the documents nor was he allowed to inspect the files which, form the basis of the imputation of charges, for which the Petitioner had to approach this Court in W.P.(C) No.8076 of 2008 and W.P.(C) No.18806 of 2008. And, subsequently he was only allowed to peruse the record pursuant to the orders passed by this Court

1-D. After inspecting the records, the Petitioner filed his statement of defence on 09.04.2010 at Annexure-12, denying all the charges levelled against him.

In the statement of defence, the Petitioner pleaded that the allegation levelled against him was

¹ 15. Procedure for imposing Major Penalties – (1) to (8). xxx xxx xxx
(9) The disciplinary authority shall, if it is not the inquiring authority, consider the record of the inquiry and record its findings on each charge.



that he had not put up the files before the Secretary for disposal of the case. But the duties of the Bench Clerk are only to put up those files before the Presiding Officer (Secretary). Whereas, the dates are to be fixed by the Presiding Officer himself. Despite his placing all the files before the Secretary to fix the dates of hearing, the Secretary, who happens to be the Presiding Officer, did not fix any date, for which the files could not roll, and he has no laches as alleged, nor has he committed any misconduct or negligence in duty.

1-E. After enquiry, the Enquiry Officer submitted his report dated 05.10.2010 at Annexure-13, exonerating the Petitioner from the charges of negligence in duty, disobedience of orders and misconduct.

1-F. On 21.07.2011, by Annexure-14, a show cause notice was issued by the disciplinary authority proposing to impose the following punishment;

"xxx

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1. He is warned not to repeat such mistake.
2. One increment is stopped with cumulative effect
3. The period of suspension be treated as leave due.

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xxx"



1-G. The reason given for differing from the finding of the Enquiry Officer was that, in a similar case, one Smt. Anjana Sahoo had already been punished, and therefore, the Petitioner was also liable to be punished.

1-H. The Petitioner submitted his reply by communication dated 26.07.2011 at Annexure-15. Notwithstanding such reply, by impugned Office Order dated 10.02.2012 at Annexure-16, the following punishment was imposed;

"XXX XXX XXX

1. He is warned not to repeat such mistake.
2. One increment is stopped with cumulative effect,
3. The period of suspension be treated as leave due.

xxx xxx xxx''

Being aggrieved by the order of punishment at Annexure-16, the Petitioner preferred an appeal, which was rejected allegedly by a non-speaking order vide impugned order dated 03.07.2014 at Annexure-20.

2. Assailing the order of punishment at Annexure-16 and the rejection order passed by the appellate authority at Annexure-20, the present writ application



has been filed inter alia on the ground that the charges levelled against him were baseless, for which he was rightly exonerated by the Enquiry Officer. Thus, the order of punishment is bad and the reason stated by the disciplinary authority while differing from the Enquiry Officer, as borne out from the show cause dated 21.07.2011 at Annexure-14, is untenable, and further the order at Annexure-20 is assailed on the ground that the same is a non-speaking order as such not sustainable in law.

3. To substantiate such submission, learned counsel for the Petitioner has relied upon the following judgments:

- i. ***Punjab National Bank v. Kunj Behari Misra (Chief personnel)***²
- ii. ***Hrudananda Behera v. State of Odisha***³
- iii. ***Manoranjan Mohapatra v. State of Odisha and Others***⁴
- iv. ***State of U.P. v. Ram Prakash Singh***⁵

4. In reply to the aforesaid averments of the Petitioner, the Opp. Parties have filed a counter

² *Punjab National Bank v. Kunj Behari Misra (Chief personnel)*, (1998) 7 SCC 84; AIR 1998 SC 2713

³ *Hrudananda Behera v. State of Odisha*, Judgment dated 16.12.2024 passed by this Court in W.P.(C) No.10910 of 2021

⁴ *Manoranjan Mohapatra v. State of Odisha*, Judgment dated 30.05.2025 passed by this Court in W.P.(C) (OAC) No.2178 of 2016

⁵ *State of U.P. v. Ram Prakash Singh*, 2025 SCC OnLine SC 891



affidavit, justifying the imposition of punishment as well as the appellate order confirming such punishment.

5. It is urged by learned Senior Counsel, Mr. D. Mohapatra that the enquiry report is not sacrosanct and the disciplinary authority is to consider all the materials on record and pass the final verdict. It is further submitted that there is no bar to differ from the findings and recommendation of the Enquiry Officer, if circumstances so demand. In view of the materials on record, the order of punishment at Annexure-16 has been rightly passed.

6. While refuting the allegation that the Appellate Authority, while passing the order at Annexure-20, did not apply his mind, it is stated that the Appellate Authority considered the gravity of the case in consonance with the grounds raised in the appeal memo and passed the order, being satisfied that the employee failed to maintain absolute integrity and thereby committed gross misconduct and failed to discharge his duties properly, and therefore rejection of the appeal does not merit interference.

7. It is submitted with vehemence in the light of the evidence against the delinquent was duly considered by the Disciplinary Authority and the



Appellate Authority found the Petitioner guilty have rightly decided the quantum of penalty in such backdrop. Hence, the prayer of the Petitioner merits no consideration and the writ application is liable to be dismissed.

8. It is brought to the notice of this Court that in the meanwhile the Petitioner was transferred on deputation to Sambalpur Development Authority on dt.14.02.2019 and retired from service on dt.31.03.2024, and the retirement benefits payable is under process.

9. On these competing submissions, this Court is called upon to adjudicate whether the impugned orders at Annexure-16 and 20, imposing punishment on the Petitioner and affirmative thereof by rejection of appeal are sustainable in law.

10. Mr. Das, learned Counsel appearing for the Petitioner submitted referring to Rule-248⁶ of GRCO (Civil) that the Secretary being the presiding officer having not fixed any date therein to further put up the matter, the Petitioner cannot be penalized for the same and cannot be said to have acted negligently or disobedience of any order.

⁶ **248. Writing and signing order sheet**– The order-sheet may be written by an officer of the Court at the dictation of the Presiding Judge, who, however, shall sign and be responsible for the correctness of the entries in it.



10-A. Further, while relying upon the decision of co-ordinate bench of this Court in ***Manoranjan Mohapatra (supra)***⁴, it is contended that the reasoning given in the show cause at Annexure-14 that a similarly circumstanced Bench Clerk, namely Anjana Sahoo, has been punished is not in consonance with Rule 15(9)¹ of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 and is ex facie illegal, and as such, the consequential order passed by the Appellate Authority dated 03.07.2014 under Annexure-20, being a non-reasoned one, merits interference.

11. On a conspectus of materials on record, admittedly in the show cause dated 21.07.2011, the disciplinary authority has differed from the Enquiry Officer on the ground that in another case of similar nature, where Smt. Anjana Sahoo, Bench Clerk, was charge-sheeted with similar charges, she has been punished; hence, similar punishment should be given.

For convenience of reference the show cause dated 21.07.2011 at Annexure-14 is culled out hereunder:-



CUTTACK DEVELOPMENT AUTHORITY
ARUNODAYA BHAWAN: LINK ROAD: CUTTACK-12

No. 44578 /CDA/Dated 21.7.11

To:

Shri Sharat Kumar Mohanty, Jr. Asst.
Cuttack Development Authority,
Cuttack-12.

Sub:

Show cause notice on proposed punishment of the Disciplinary Authority as per Rules-15, 10 (b) of (CCA) Rules-1962.

Ref:

Draft charges No.13106/CDA/Dt. 02.06.2007 under Rule-15 of OCS (CCA) Rules-1962.

Whereas Departmental Proceedings were initiated against you vide memo reference and whereas the charges were duly communicated to you vide memorandum No.13106/CDA/Dt. 02.06.2007.

On receipt of the statement of defence, the disciplinary Authority has been pleased to appoint Asst. Town Planner, CDA as Enquiring Officer and Sri J.P. Samal, Asst. Law Officer now Law Officer as Marshalling Officer respectively to enquire into the above charges vide office order No.18156/CDA/Dated 12.09.2007 which was communicated to you.

Whereas the Enquiring Officer enquired into the matter & submitted the Enquiry report on 05.10.2010 (copy enclosed).

Whereas the Disciplinary Authority has been pleased to pass the following orders:-

"Perused the report of the Enquiring Officer. None of the charges have been proved against the delinquent. Also perused the order of the Vice-Chairman in another case of similar nature where Smt. Anjana Sahoo, Bench Clerk was charge sheeted with similar charges and the Vice-Chairman's order dt:25.04.2009 in the file of Smt. Anjana Sahoo as follows:

"As the omissions have been made good as reported, a lenient view is taken. She is warned not to repeat such mistake. One increment is stopped with cumulative effect".

In the fitness of things for similar charges similar punishment will be appropriate and I do not agree to the recommendation of exoneration by the Enquiring Officer. Similar punishment as reflected in case of Smt. Anjana Sahoo should be given effect to in this case also which is as follows:

1. He is warned not to repeat such mistake.
2. One increment is stopped with cumulative effect.
3. The period of suspension be treated as leave due.

Hence you are called upon to submit your representation on the finding and proposed orders of punishment within 15 days from the date of issue of this memo, failing which it will be presumed that you have no representation to offer and action as deemed proper will be taken as per rule. The copy of the enquiry report is also enclosed for your reference.

The receipt of the same should be acknowledged by Sri Mohanty, Jr. Asst.

Encl: as above.

[Signature]
Secretary
21.7.11

12. In this regard, this Court respectfully refers to the following Judgments of the Apex Court;

i. ***Ram Kishan v. Union of India***⁷

ii. ***Yoginath D. Bagde v. State of Maharashtra***⁸

12-A. In the case of ***Ram Kishan (Supra)***⁷, the Apex Court has held as under:-

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⁷ *Ram Kishan v. Union of India*, (1995) 6 SCC 157

⁸ *Yoginath D. Bagde v. State of Maharashtra*, (1999) 7 SCC 739



The next question is whether the show cause notice is valid in law. It is true, as rightly contended by the counsel for the appellant, that the show cause notice does not indicate the reasons on the basis of which the disciplinary authority proposed to disagree with the conclusions reached by the inquiry officer. **The purpose of the show cause notice, in case of disagreement with the findings of the enquiry officer, is to enable the delinquent to show that the disciplinary authority is persuaded not to disagree with the conclusions reached by the inquiry officer for the reasons given in the inquiry report or he may offer additional reasons in support of the finding by the inquiry officer.** In that situation, unless the disciplinary authority gives specific reasons in the show cause on the basis of which the findings of the inquiry officer in that behalf is based, it would be difficult for the delinquent to satisfactorily give reasons to persuade the disciplinary authority to agree with the conclusions reached by the inquiry officer. In the absence of any ground or reason in the show cause notice it amounts to an empty formality which would cause grave prejudice to the delinquent officer and would result in injustice to him. The mere fact that in the final order some reasons have been given to disagree with the conclusions reached by the disciplinary authority cannot cure the defect.



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(Emphasized)

12-B. In the case of **Yoginath D. Badge (Supra)**⁸,
the Apex Court held thus;

"XXX

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28.it is open to the disciplinary authority either to agree with the findings recorded by the enquiring authority or disagree with those findings. If it does not agree with the findings of the enquiring authority, it may record its own findings. Where the enquiring authority has found the delinquent officer guilty of the charges framed against him and the disciplinary authority agrees with those findings, there would arise no difficulty. So also, if the enquiring authority has held the charges proved, but the disciplinary authority disagrees and records a finding that the charges were not established, there would arise no difficulty. Difficulties have arisen in all those cases in which the enquiring authority has recorded a positive finding that the charges were not established and the delinquent officer was recommended to be exonerated, but the disciplinary authority disagreed with those findings and recorded its own findings that the charges were established and the delinquent officer was liable to be punished. This difficulty relates to the question of giving an opportunity of hearing to the delinquent



officer at that stage. Such an opportunity may either be provided specifically by the rules made under Article 309 of the Constitution or the disciplinary authority may, of its own, provide such an opportunity. Where the rules are in this regard silent and the disciplinary authority also does not give an opportunity of hearing to the delinquent officer and records findings different from those of the enquiring authority that the charges were established, **"an opportunity of hearing" may have to be read into the rule by which the procedure for dealing with the enquiring authority's report is provided principally because it would be contrary to the principles of natural justice if a delinquent officer, who has already been held to be "not guilty" by the enquiring authority, is found "guilty" without being afforded an opportunity of hearing on the basis of the same evidence and material on which a finding of "not guilty" has already been recorded.**

XXX

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XXX"

(Emphasized)

It is apt to note that the Co-ordinate Bench of this Court in ***Manoranjan Mohapatra (supra)***⁴ has reiterated the principles laid down in the aforementioned judgments.



13. It is not disputed by the Opposite Parties that the Petitioner was never given an opportunity to examine as to whether his case is similarly circumstanced with that of Anjana Sahoo or not. And, the order of punishment qua Anjana Sahoo was never urged before the Enquiry Officer. The enquiry report exonerating the Petitioner is a well-reasoned one. The show cause notice, therefore, amounts to an empty formality as the provisions of Rule 15(10)(i)(b)⁹ of the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 ex-facie have not been complied with. It appears that the Disciplinary Authority had already decided what punishment to impose while issuing this show cause notice.

Thus, the sole reason stated in Annexure-14, citing punishment awarded to Anjana Sahoo for differing from the Enquiry Officer when the charges

⁹ **15. Procedure for imposing Major Penalties** –(1) to (9).xxx xxx xxx
10) (i) (a)xxx xxx xxx

(b) On receipt of the representation referred to in sub-clause (a) if the disciplinary authority having regard to the findings on the charges, is of the opinion that any of the penalties specified in clauses (vi) to (ix) of rule 13 should be imposed, he shall furnish to the delinquent Government servant a statement of its findings along with brief reasons for disagreement, if any, with the findings of the inquiring officer and give him a notice by registered post or otherwise stating the penalty proposed to be imposed on him and calling upon him to submit within a specified time such representation as he may wish to make against the proposed penalty :

Provided that in every case in which it is necessary to consult the Commission under the provision of the Constitution of India and the Orissa Public Service Commission (Limitation of Functions) Regulation, 1989, the record of inquiry together with copies of the notices given under sub-clauses (a) and (b) and the representations, if any, received in response thereto within the specified time shall be forwarded by the disciplinary authority to the Commission for its advice.



are not proved, is prima facie not tenable since it is de hors the basic fundamentals of natural justice and the law and procedure governing disciplinary proceedings. The consequential order of punishment being illegal cannot be allowed to stand.

14. For reasons stated above, the order dated 10.02.2012 at Annexure-16 is hereby quashed.

15. Now coming to order passed by the Appellate authority at Annexure-20, on a bare perusal it can be seen that without adverting to the contentions of the appellant therein the appeal was rejected merely observing that *"After going through the relevant records, enquiry report and para-wise comments, the Hon'ble Chairman, CDA has been pleased to pass the following order that "Being a Development Authority employee, he has failed to maintain absolute integrity, committed gross misconduct and failed to discharge his duty properly. Hence the appeal of Sri Sharat Kumar Mohanty, Sr. Asst. for exoneration of the above order of penalty merits no consideration and rejected"*.

16. Law is no more res integra that reasons are the heart and soul of an order, and by passing an order without assigning any reason, authorities act like "inscrutable faces of sphinx."



The said proposition has been recognized and reiterated by the Apex Court in a catena of judgments, and it has been held that "reason is the heartbeat of every conclusion and without the same it becomes lifeless," and a non-speaking order is incongruous with judicial or quasi-judicial performance. [**Ref: Raj Kishore Jha v. State of Bihar**¹⁰]

17. Keeping in view the law in vogue, this Court is constrained to observe that the authority just went through the motions while evaluating the materials on record. And, the mandate of law was followed in its complete breach by stating that the order has been passed after going through the record when the reasoning and analysis of the record are conspicuously absent and the contentions raised by the person aggrieved were not dealt with. Thus, the impugned appellate order at Annexure-20, being a non-speaking order, is hereby quashed.

18. In view of the above mentioned facts and circumstances, the writ application is allowed. The impugned order of punishment at Annexure-16 and order passed by the Appellate Authority at Annexure-20 are quashed.

¹⁰ *Raj Kishore Jha v. State of Bihar*, (2003) 11 SCC 519



19. Since the Petitioner has retired in the meanwhile and keeping in view his age especially since the writ petition is pending since 2014, this Court is of the considered view that it would not be prudent to follow the usual norm, at this stage, to remit the matter to the appellate/disciplinary authority.

20. Accordingly, it is directed that the Petitioner shall be entitled to get all consequential benefits including the salary for the period of suspension as the same shall be treated as to be spent on duty and the retiral and other financial benefits be compounded accordingly granted to the Petitioner within a period of three months hence deducting the amount, if any, paid.

21. The writ petition accordingly stands disposed of. Costs made easy.

(V. Narasingh)
Judge

*Orissa High Court, Cuttack,
Dated the 13th March. 2026/Ayesha*