



**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C )No.4690 of 2024**

***Harekrishna Pujari***

....

***Petitioner***

*Mr. P.C. Mohapatra,  
Adv.*

*-versus-*

***Collector And DM,  
Nabarangpur & Others***

....

***Opposite Parties***  
*Mr. A. Tripathy, AGA*

**COROM:  
THE HON'BLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER  
07.05.2026**

**Order No**

- 7.** 1. This matter is taken up through Hybrid Mode.
2. Heard learned counsel appearing for the parties.
3. The present Writ Petition has been filed inter alia challenging the order dt.17.08.2021 so passed by Opp. Party No.1, confirmed by the Appellate authority-Opp .Party No.2 vide order dt.02.06.2023 under Annexure-12.
4. Learned Counsel appearing for the Petitioner contended that in the Proceeding initiated against the Petitioner under Rule-15 of the OCS (CC & A ) Rules, 1962, (in short, "Rules") vide Memorandum dt.17.01.2018 under Annexure-1, and the charges framed therein, as per the Memo of evidence enclosed vide Annexure-III, the charges are to be proved with production of the documents to be exhibited through the Civil Supplies Officer, Nawarangpur. (Memo of evidence enclosed as Annexure-III reads as follows):



| <b>Article of charges</b>                                                                    | <b>Documents by which the charge is proposed to be sustained</b>                                                                                                                                                                                                    | <b>Witness by whom the charge is proposed to be sustained</b> |
|----------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|
| <b>1</b>                                                                                     | <b>2</b>                                                                                                                                                                                                                                                            | <b>3</b>                                                      |
| <b><u>Article No.-I</u></b><br>Negligence and dereliction performing his duties              | 1.Letter No.1878/7.11.2017 Collector, Nabarangpur<br><br>2. Enquiry report of CSO, Nabarangpur vide District Office LetterNo.3935 dtd.08.11.2017.<br><br>3. Xerox copy of order No.1885/20.7.2017 and OTC-21 wherein the signatures of authorities has been forged. | Civil Supplies Officer, Nabarangpur                           |
| <b><u>Article NO.-II</u></b><br>Counterfeiting duty by forging signature Authorities in file |                                                                                                                                                                                                                                                                     |                                                               |

4.1. It is contended that in the said Proceeding, Petitioner not only filed his written statement of defence on 28.02.2018 under Annexure-2, but also participated in the inquiry. It is however contended that even though the charges in terms of the Memorandum were required to be proved by examining Civil Supplies Officer, Nawarangpur as a witness and by exhibiting the documents so reflected in the Memo of evidence, but during inquiry, the documents relied on by the Prosecution were never produced nor proved at any point of time, with examination of the witness, namely, the Civil Supplies Officer, Nawarangpur.



4.2. It is contended that without producing the documents basing on which the charges were framed and without examining the witness, the Inquiry Officer held the Petitioner guilty of the charges in his report dt.19.09.2020 under Annexure-4. It is accordingly contended that since the documents relied on by the prosecution in support of the charges were never exhibited nor proved by examining the Civil Supplies Officer , Nawarangpur as an witness, the inquiry was vitiated and Petitioner could not have been held guilty of the charges by the Inquiry Officer vide his report dt.19.09.2020 under Annexure-4.

4.3. It is further contended that on receipt of the 1<sup>st</sup> show-cause notice along with the inquiry report, Petitioner though raised the aforesaid issue, but without proper appreciation of the same, Petitioner was issued with the 2<sup>nd</sup> show-cause vide letter dt.09.03.2021 under Annexure-8 by proposing the following punishment.:

Withholding of further promotion

Withholding of one increment with cumulative effect.

The Period of suspension from 20.11.2017 to 23.01.2018 be treated as such.

4.4. It is contended that Petitioner though filed his reply to the 2<sup>nd</sup> show-cause under Annexure-9 and no such punishment of withholding of further promotion, is prescribed under Rule-13 of the aforesaid Rules, but without proper appreciation of the provisions contained under Rule-13 of the Rules and the reply made by the Petitioner under Annexure-9 to the 2<sup>nd</sup> show-cause, the proceeding was



disposed of with passing of the impugned order dt.17.08.2021 under Annexure-10 by Opp. Party No.1.

4.5. Vide the said order, punishment proposed in the 2<sup>nd</sup> show-cause was inflicted on the Petitioner. Petitioner thereafter though moved the Appellate authority-Opp. Party No.2 by filing an appeal under Annexure-11, but the Appellate authority without proper appreciation of the grounds of appeal and the illegality and irregularity committed by the Inquiry Officer in conducting the inquiry, rejected the same vide the order dt.02.06.2023 under Annexure-12.

4.6. It is contended that since the charges so framed against the Petitioner in the proceeding initiated vide Memorandum dt.17.01.2018 under Annexure-1 was never conducted by the Inquiry Officer in accordance with law and such charges were never proved with examination of the witnesses so indicated in the memo of evidence with production of the documents and being proved, in absence of the documents being produced through the witness, Petitioner could not have been held guilty of the charges by the Inquiry Officer, basing on which the Proceeding was disposed of with passing of the impugned order of punishment under Annexure-10, confirmed vide order under Annexure-12. It is also contended that since no such punishment of withholding of further promotion is prescribed under Rule-13 of the Rules, no such punishment could have been imposed.

4.7. Making all these submissions, learned Counsel appearing for the Petitioner contended that the impugned



order passed under Anenxure-10, confirmed vide order under Annexure-12 requires interference of this Court as both the orders are not legally sustainable.

5. Mr. A. Tripathy, learned Addl. Govt. Advocate on the other hand made his submission basing on the stand taken in the counter affidavit so filed by Opp. Party Nos.1 to 3.

5.1. It is contended that in the proceeding so initiated vide Memorandum dt.17.01.2018 under Annexure-1, Petitioner not only filed his Written Statement of defence, but also participated in the inquiry. The Inquiry Officer after conducting the inquiry when found the Petitioner guilty of the charge, submitted the report dt.19.09.2020 under Annexure-4. Opp. Party No.1 being the Disciplinary authority by following the provisions contained under Rule-15 of the Rules, disposed of the Proceeding with imposition of the punishment so proposed in the 2<sup>nd</sup> show-cause vide order dt.17.08.2021 under Anenxure-10.

5.2. It is contended that since there is no allegation that statutory provisions were not followed in course of the proceeding nor principle of natural justice was violated, no illegality or irregularity can be found with the impugned order of punishment passed by Opp. Party No.1 under Annexure-10. It is also contended that Petitioner's appeal against the impugned order was rejected with passing of a reasoned order vide order dt.02.06.2023 under Annexure-12. It is accordingly contended that since the proceeding has been conducted in accordance with law and there is no allegation that Principle of natural justice was not followed,



no illegality or irregularity can be found with the impugned orders and the Writ Petition is liable to be dismissed.

6. Having heard learned counsel appearing for the parties and considering the submission made, this Court finds that Petitioner while in service, the proceeding in question was initiated against him vide Memorandum dt.17.01.2018 under Annexure-1. As found from the Memorandum, in order to prove the charges, the prosecution was to produce various documents through the witness, namely, Civil Supplies Officer, Nawarangpur so reflected in the Memo of Evidence under Annexure-III.

6.1 This Court after going through the inquiry report, finds that neither Civil Supplies Officer, Nawarangpur was examined as a witness nor the documents relied on by the prosecution in support of the charges were produced or proved.

6.2. Since in the inquiry, neither the documents in support of the charges were produced and proved nor the witness was examined in support of the charges, it is the view of this Court that the inquiry conducted by the Inquiry Officer was vitiated. It is also the view of this Court that, in absence of examination of witness with production of the documents in support of the charges, Petitioner could not have been held guilty of the charges by the Inquiry Officer in his report dt.19.09.2020 under Annexure-4.

6.3. Not only it is the view of this Court that the inquiry is completely vitiated, but also it is the view of this Court that, basing on such inquiry report, the Proceeding could not have



disposed of with passing of the impugned order of punishment vide order dt.17.08.2021 under Annexure-10. It is also the view of this Court that since no such punishment of withholding of promotion is prescribed under Rule-13 of the Rules, no such punishment could have been proposed as well as imposed upon the Petitioner along with other punishments.

6.4. The order passed by the Disciplinary Authority-Opp. Party No.1 as found has been confirmed by the Appellate Authority vide order dt.02.06.2023 under Annexure-12 without proper appreciation of the relevant provisions of Rule-15 vis-à-vis Rule-13 of the Rules and the stand taken by the Petitioner with regard to the illegalities and irregularities committed by the Inquiry Officer.

6.5. In view of the aforesaid analysis, this Court is inclined to quash the impugned order of punishment passed by Opp. Party No.1 on 17.08.2021 under Annexure-10, confirmed by the Appellate authority-Opp. party No.2 vide order dt.02.06.2023 under Annexure-12. While quashing both the orders, this Court remits the matter to Opp. Party No.1 to start the proceeding from the stage of inquiry. If the Inquiry Officer so appointed and conducted the inquiry with submission of the report on 19.09.2020 under Annexure-4 is not available at present, Opp. Party No.1 is free to appoint a fresh Inquiry Officer as well as a Marshalling Officer for the purpose of inquiry of the proceeding.

6.6. Since the proceeding is of the year 2018, this Court directs Opp. Party No.1 to conclude the same in accordance with law, as expeditiously as possible, preferably by the end



of this year, if there is no other legal impediment. Petitioner however, is directed to cooperate at every stage of the proceeding for such disposal of the proceeding within the aforesaid time period.

7. The Writ Petition accordingly stands disposed of with the aforesaid observation and direction.

**(Biraja Prasanna Satapathy)**  
**Judge**

sangita

Signature Not Verified

Digitally Signed  
Signed by: SANGITA PATRA  
Reason: authentication of order  
Location: high court of orissa, cuttack  
Date: 22-May-2026 18:51:10

