



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.838 of 2024

State of Odisha and another* *Appellants

Mr. Satya Brata Mohanty, AGA

-versus-

Rabi Narayan Panda and Others* *Respondents

Mr. Prasanna Kumar Mishra, Advocate

CORAM:

JUSTICE KRISHNA S. DIXIT

JUSTICE CHITTARANJAN DASH

ORDER

05.05.2026

Order No.

01.

I.A. No.2217 of 2024

1. This Intra-Court Appeal by the State and its functionaries seeks to lay a challenge to a learned Single Judge's order dated 04.09.2023 whereby the Respondent-employee's WPC No.26588 of 2023 having been favoured, a Writ of Mandamus has been issued for his reinstatement in service.

2. Application supported by an affidavit in I.A. No.2217 of 2024 is moved seeking condonation of delay of 202 days brooked in filing the subject Appeal. On 07.01.2026, a Co-ordinate Bench of this Court had directed issuance of notice to the Respondent-employee who have chosen, not to file objection to the said I.A.

3. A perusal of the Application and the affidavit in the totality of the circumstances of the main case would show that



there is a plausible explanation for the delay brooked. Throwing away a worthy cause on merits would do injustice to a matter like this, if that is done only on the ground of delay. Justice of the case eminently warrants condonation of delay.

In view of that, we have allowed the subject Application and delay stands accordingly condoned. The I.A. is accordingly disposed of.

(Krishna S. Dixit)
Judge

(Chittaranjan Dash)
Judge

02. W.A. No.838 of 2024

After service of notice, the Respondent-employee having entered appearance through the counsel vehemently opposes the Appeal making submission in justification of the impugned order and the reasoning on which it has been structured.

2. Having heard learned counsel for the parties and having perused the Appeal papers, we are inclined to grant interference in the matter for the following reasons:

2.1. The Respondent-employee was disengaged vide order dated 31.05.2007, which he challenged in O.A. No.593 of 2008 that came to be turned down by the Tribunal vide order dated 08.01.2010. Said OA order being challenged before the Co-ordinate Bench of this Court in W.P.(C) No.16921 of 2010 came to be negatived vide order dated 24.01.2019. The Bench



by a well considered order running into 12 pages have given elaborate reason as to why disengagement of the Respondent-employee was justified. There being no further challenge, the said order has attained finality and that is why the doctrine of *res judicata* which is vociferously argued by learned AGA Mr.Mohanty becomes invocable, which aspect we will discuss *infra*.

2.2. In W.P.(C) No.3314 of 2018, one Mr. S. P. Dash had secured an order of reinstatement which was made the basis for the Respondent-employee to seek the similar relief at the hands of the Appellants on the ground of parity. Accordingly, he had made a representation, that came to be rejected on 23.05.2023. The said rejection was challenged by him in W.P.(C) No.26558 of 2023 that came to be allowed by the impugned order herein. The impugned order except making lips service to the Coordinate Bench order in W.P.(C) No.16921 of 2010 dismissed on 24.01.2019, does not give any jurisprudential reason as to how that order would seal the fate of the Respondent. Thus, an eminent case is made out for interference in the matter.

2.3. There is force in the submission of Mr. Mohanty that the elaborate order of the Coordinate Bench in Respondent-employee's W.P.(C) dismissing his O.A. would constitute *res judicata*. The doctrine of *res judicata*, it is said by the standard writers, is as old as mountains. It has been enacted in CPC during the British regime to a limited extent in 1908 and those



limits came to be expanded in the 1976 Amendment. In other words, in terms of *res judicata* as has been enacted in Section 11 of the CPC, 1908, a suit can be resisted. However, the gamut of this doctrine is much wider than what has been enacted in the said provision and that gamut would take into its class, petitions of the kind. All these aspects have not been discussed by the learned Single Judge in the impugned order.

2.4. We observe that the learned Single Judge was swayed away by the principle of parity in view of S. P. Dash's W.P.(C). It hardly needs to be stated that the principle of parity has no place when *res judicata* operates. Courts have to do justice only in accordance with law, that is how oath is administered to the judicial officers. Doing justice *dehors* law is unknown to our system, decisions in this regard galore in law reports. We do not agree with the vehement submission of the learned counsel representing for Respondent-employee that once a representation is rejected in violation of principle of parity *qua* similarly circumstanced disengaged employee Mr. S. P. Dash, that would be a fresh cause of action, inasmuch as there is infraction of parity principle.

2.5. The last submission of learned counsel for Respondent-employee that the State being a model employer in light of Apex Court decision in ***Bhupendra Nath Hazarika & Anr vs State Of Assam & Ors***, 2013 (2) SCC 516 and justice having already been done by the writ court in a given set of circumstances, the Intra-Court Appeal of the kind should not be



entertained is not acceptable to us as enunciated reasons supra having not been discussed in the impugned order.

In the above circumstances, this Appeal succeeds; impugned order of the learned Single Judge is set at naught; Respondent's W.P.(C) No.26558 of 2023 is dismissed. Cost made easy.

It is open to the Respondent to seek review of the Coordinate Bench order dated 24.01.2019 whereby his W.P.(C) No.16921 of 2010 was negatived. In that connection all contentions are kept open.

(Krishna S. Dixit)
Judge

(Chittaranjan Dash)
Judge

AKPradhan/Priyanka

Signature Not Verified

Digitally Signed
Signed by: ANANTA KUMAR PRADHAN
Designation: Senior Stenographer
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 08-May-2026 16:44:23

