



IN THE HIGH COURT OF ORISSA AT CUTTACK

WA NO.1519 OF 2024

State of Odisha and another *Appellants*

Represented By Adv. –
Mr. Subha Bikash Panda, AGA

-versus-

Ramesh Chandra Nanda *Respondent*

Represented By Adv. –
Mr. Pravash Chandra Mahapatra, Advocate

CORAM:

JUSTICE MANASH RANJAN PATHAK

JUSTICE MRUGANKA SEKHAR SAHOO

ORDER

12.08.2025

(Hybrid Mode)

Order No.

01.

I.A. No.3852 of 2024

1. The I.A. has been filed for dispensing with filing of certified copy of the order impugned before this Court.

Since the present appeal is an intra Court appeal, the records of the writ petition out of which the appeal arises is already available on record.

The I.A. is favoured and disposed of.

I.A. No.3853 of 2024

2. The writ appeal has been filed after brooking a reported delay of 443 days in filing the appeal.

3. The learned AGA refers to the grounds stated in the petition for condonation of delay supported by an affidavit. It is submitted that sufficient cause has been shown for condonation



of delay. He also submits that the State is only a legal entity which works with the officials as its limbs and this working is on stage-wise basis and at times delay is unintentionally caused when papers move from one table to another or from one office to another. He also points out that there is a whole lot of process till the decision is taken at the pinnacle. Lastly, he adds that there are some arguable points in the main matter itself. So arguing he seeks for allowing of the application and condoning of the delay.

4. The learned counsel for respondent, Mr. Mahapatra vehemently opposes the prayer for condonation of delay and submits that the causes shown are too frugal and the delay should not be condoned.

5. Since we are taking up of the appeal along with the I.A. we thought it appropriate to hear the learned Additional Government Advocate for the appellants regarding the facts of the case, the questions of law involved and we are also assisted by Mr. Pravash Chandra Mahapatra, learned counsel who has entered appearance on behalf of the respondent.

It is submitted by the learned Additional Government Advocate that the impugned order passed by the learned Single Judge suffers from non-consideration of relevant facts as well as the questions of law and prayer in the writ petition was allowed under an erroneous impression that a disciplinary proceeding was pending against the respondent whereas in fact apart from departmental proceeding criminal cases are pending against the respondent.



6. The WPC (OA) No.1802 of 2017 was registered before this Court on 08.01.2022 after the O.A. No.1802 of 2022 was transferred upon abolition of the State Administrative Tribunal.

The reliefs sought for in the OA were:

“i) The impugned order at Annexure-1 be quashed.

ii) The pension and pensionary benefits of the applicant be disbursed to him immediately with interest as per law in view of the order at Annexure-3 notwithstanding with the order at Annexure-1 which is in derogation to the order at Annexure-3 with all other service and financial benefits incurred to him.”

Annexure-1 to the writ petition is the order of the Governor dated 25.04.2016 imposing punishment of deduction of pension of petitioner by 1% for one year. Annexure-3 is order of the Tribunal dated 08.01.2016 passed in O.A. No.44 of 2016, “without going into the merits of the case” as observed by the OAT, to conclude the departmental proceeding within a period of two months.

7. The learned counsel, Mr. Mahapatra appearing on behalf of the respondent files in Court, office order dated 18.12.2023 issued by the Forest, Environment and Climate Change Department which is taken on record. He submits that the said order has been passed by the Government implementing the order passed by the learned Single Judge in WPC (OA) No.1802 of 2017 dated 10.02.2023 allowing the prayer of the respondent, impugned before this Court in the present appeal.

On perusal of the order dated 18.12.2023, it is apparent that the Government Department has referred to the order passed in



WPC (OA) No.1802 of 2017 dated 18.12.2023 and in fact the order passed in the writ petition has been complied with.

8. Regarding the pendency of the criminal case against the respondent, it is submitted by the learned AGA that the learned Single Judge has not taken into account such pendency. On being asked regarding filing of any counter, the learned AGA submits that he is not very sure when/whether the counter was filed before erstwhile OAT or this Court in W.P. The records of the writ petition which are available with us also do not show filing of any counter in the OA or subsequently WPC (OA). Conspicuously, the OA also does not refer to pendency of any criminal case on the date of filing of the OA., i.e. 03.11.2017. O.A. was transferred to this Court and presented on 08.01.2022. The challenge was to the order dated 25.04.2016 passed by the authority in disciplinary proceeding withholding of pension payable to petitioner by 1% for one year.

9. Mr. Mahapatra, learned counsel for the respondent submits that he may be provided with a copy of the appeal memo as he is appearing on behalf of the respondent by filing Vakalatnama on 15.06.2025. We accede to the prayer of the learned counsel for the respondent that he may be served with a copy of the appeal memo along with all annexures and I.As.

Mr. Mahapatra referring to Rule 7 of the Odisha Civil Services Pension Rules-Explanation (b)(i) submits that on the date of stoppage of pension/grant of provisional pension the conditions as specified in Rule 7 explanation (b)(i) was not satisfied. Therefore the respondent should receive the full pension as directed by the learned Single Judge.



10. However, we are presented with a situation where the appellants have challenged the order on the ground that because of pendency of the criminal cases in terms of the Rules 6, 7 and 66 of Odisha Civil Services Pension Rules, 1992. The final pension cannot be paid/deferred and provisional pension is being paid to the respondent, where as the Original Application, the writ petition and the orders passed therein do not refer to any pending criminal case against the respondent.

The Explanation (b)(i) to Rule 7 of OCS pension Rules is extracted herein:

*“Explanation-For the purpose of this rule-
(b) judicial proceedings shall be deemed to be instituted-
(i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made; and”*

As we have noted above the learned Single Judge has not dealt with the aspect of the pendency of criminal case as most likely the learned Judge was given an impression that no criminal cases are pending. But that can at best be a matter of guess and nothing beyond that.

11. Annexure-3 to the writ appeal to the writ appeal discloses the following:

*“Office of the Supd. of Police, Vigilance, Sambalpur Division,
Sambalpur.*

No.5247/Prose. (Vig) SBP Dt. 27.10.17

To

The Divisional Forest Officer, Kuchinda K.L. Division.

*Ref:- Sambalpur Vig. PS Case No.31 dt. 29.05.2013 U/s 13(2) r/w
13(1) (d) PC Act 1988/477-A/120-B IPC*

*Sub:- Release of Service Book of Sri Ramesh Chandra Nanda
(Retd. Range Officer).*



Sir,

With reference to the case on the Subject cited above, this to intimate that the Service Book of Sri Ramesh Chandra Nanda, Ex-Forest Range Officer (KL) was seized on 09.12.2014 during investigation of the above noted case and subsequently release in Zima of Sri Basanta Kumar Bagh, Sr. Clerk O/o-D.F.O. K.L., Kuchinda Division, Sambalpur. In this case charge sheet has already been submitted Vide-Charge sheet No.36 dt.30.06.2016 and the case is sub-judice in the court Spl. Judge Vigilance Sambalpur. Since the service Book has been left in the Zima of the dealing clerk of your office, you are at liberty to maintain, update and use the same for official work. But you are required to keep it intact and produce the same in the court of law, if required.

Yours faithfully

*Supdt. Of Police, Vigilance
Sambalpur Divn. Sambalpur."*

12. The annexure as quoted above contains the letter dated 27.10.2017 issued by the Superintendent of Police, Vigilance, Sambalpur Division, Sambalpur addressed to the Divisional Forest Officer, Kuchinda, Kendu Leaf Division pertaining to the service of the respondent. It also contains letter of the Superintendent of Police, Vigilance, Sambalpur Division, Sambalpur addressed to the Divisional Forest Officer, Kuchinda, Kendu Leaf Division dated 27.08.2020. If one goes through the said letter it is apparent that in the Sambalpur Vigilance P.S. Case No.31 dated 29.05.2013 under section 13(2) read with 13(1)(d) of the P.C. Act, 1988/477-A/120-B IPC was pending since 29.05.2013. The charge sheet No.36 dated 30.06.2016 under section 13(2) read with 13(1)(d) of the P.C. Act, 1988/477-A/120-B IPC was filed after completion of investigation. Cognizance was taken by the learned Special Judge, Vigilance, Sambalpur on 28.04.2017.



13. Accepting the submissions of Mr. Mahapatra, learned counsel for the appellant that Rule 7 explanation (b) (i) is applicable in the present case the relevant date would be 30.06.2016 and date of cognizance though not required for applying Rule 7 explanation (b)(i) would be 27.04.2017. For reasons best known to the respondent by filing Original Application before the Tribunal on 03.11.2017, which is a date subsequent to both above dates the pendency of the criminal case since 29.06.2013, filing of charge sheet on 30.06.2017, taking of cognizance by the learned trial court on 28.04.2017 have not been mentioned. The OA was subsequently transferred to this Court and taken up as a writ petition that proceeded of the basis of a parallel issue of pendency of the disciplinary proceeding. The reasons for which the State did not file counter affidavit, did not mention before the learned Single Judge when the matter was taken up regarding pendency of the judicial (criminal) proceeding and filing of charge sheet cannot be ascertained or if there was any deliberate action/inaction, we may not go into at this stage of the matter.

14. Having considered the above regarding the merits of the case, taking note of the recent decisions of the Supreme Court in SLP (C) No.2146 of 2024 (**State of Odisha v. Sudhansu Sekhar Jena**) decided on 21.02.2025 and SLP (C) No.9008 of 2024 (**State of Odisha v. Madhurima Panigrahi**), we condone the reported delay of 443 days in filing the appeal. In several matters also this Court taking note of the said two decisions of the Supreme Court has also condoned the delay.

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15. Admit.



Issue notice.

Since Mr. Mahapatra has already appeared, no further notice be issued to the respondent. Copy of the appeal memo along with annexures are served on the learned counsel for the respondent in the Court.

16. At the end of the hearing today that continued for almost one and half hour, Mr. Mahapatra, learned counsel for the respondent discloses that there is another writ petition filed by the petitioner, the number of which he cannot immediately recollect which touches the issue regarding pendency of the criminal case against him and grant of pension. If so advised, Mr. Mahapatra may find out the number of the said writ petition. However, we do not express any opinion regarding the submission of the learned counsel for the respondent in the present proceeding.

The learned AGA shall obtain instruction in response to submissions of Mr. Mahapatra regarding other writ petition.

I.A. No.3854 of 2024

17. We have heard substantially on merits of the case, both the learned counsel for the appellants and the respondent. It is apparent that pendency of the criminal case was not taken note of by the learned Single Judge as it was not pleaded in the Original Application/writ petition.

As an interim measure, we direct stay operation of the impugned order dated 10.02.2023 passed in WPC (OA) No.1802 of 2017 till disposal of the writ petition.

18. List on 11.09.2024 for further orders.

The present status of the vigilance case:Sambalpur Vig. PS Case No.31 dt. 29.05.2013 shall be obtained by the learned AGA.



Registry shall also obtain present status of the vigilance case: Sambalpur Vig. PS Case No.31 dt. 29.05.2013 from the learned Special Judge (Vigilance), Sambalpur and place on record.

(Manash Ranjan Pathak)
Judge

(Mruganka Sekhar Sahoo)
Judge

Jyostna