



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

**WPC (OAC ) No.1493 of 2018**

***Amara Kumar Behera***

....

***Petitioner***

*Mr. D. Mishra, Adv.*

*-versus-*

***State of Odisha***

....

***Opposite Party***

*Mr. M.R. Mohanty, AGA*

**CORAM:**

**JUSTICE BIRAJA PRASANNA SATAPATHY**

**ORDER**

**Order No.**

**21.08.2025**

- 18.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
- 2.** Heard learned counsel appearing for the parties.
- 3.** The present Writ Petition has been filed inter alia with the following prayer:

*It is therefore, humbly prayed that this Hon'ble Tribunal may graciously be pleased to:*

*1. Hold and declare the conduct of Disciplinary Enquiry Proceeding pursuant to Annexure-1 is ultravires Rule-15 of the OCS (CCA) Rules, 1962 and Article-14 of the Constitution of India;*

*ii. Hold and declare the enquiry report being the result of perfunctory enquiry is void ab initio and set-aside the same;*



*iii. Direct the Respondents to grant opportunity to cross examine the witnesses and adduce defence evidence in compliance with principles of natural justice quashing the order dtd.29.09.2016.*

*iv. Hold and declare the Second Show-cause notice dated 18.05.2018 under Annexure-14 is illegal, void and non-est in the eye of law and consequentially quash the same.*

*And may pass such other order as deemed just and proper, And for this act of kindness, the applicant shall as in duty bound ever pray.*

**4.** It is contended that Petitioner while in service, a proceeding was initiated against him under Annexure-1 vide Memorandum dt.19.01.2015 under Rule-15 of the OCS (CCA) Rules, 1962 (in short, the “Rules”). It is contended that on being provided with the Memorandum with the article of charges, Petitioner when made an application under Annexure-2 with a request to provide him the documents and thereby enabling him to file his Written Statement of defence, but the same was never provided as the ground indicated in communication dt.07.10.2015 under Annexure-3.

**4.1.** It is contended that without providing him the documents as prayed for, the proceeding proceeded further with appointment of the Inquiry Officer and after submission of the inquiry report under Annexure-9, Petitioner was issued with the 1<sup>st</sup> show-



cause on 12.01.2018 under Annexure-10. Petitioner as well submitted his reply to the same on 12.02.2018.

**4.2.** It is contended that on the face of the fact that Petitioner was never provided with the documents and accordingly he was prejudiced, but the said fact was never taken into consideration and the 2<sup>nd</sup> show-cause was issued on 18.05.2018 under Annexure-14, proposing therein to impose the following penalties:

(a ) Dismissal from service.

(b) Recovery of misappropriated amount of Rs.81,02,370/- from the DO.

**4.3.** It is contended that challenging issuance of such 2<sup>nd</sup> show-cause notice on 18.05.2018, the present application was originally filed before the Tribunal and the Tribunal while entertaining the application, passed an interim order on 09.07.2018 to the following effect:

*“So far as S.P. No.74(C )/2018 is concerned, as in the meantime 2<sup>nd</sup> show cause notice has been served on the applicant on 30.06.2018 proposing dismissal from service, the applicant is directed to file show cause but no final order shall be passed without leave of the Tribunal.*

*The status quo as on today be maintained.”*

**4.4.** It is contended that because of such interim order passed, the proceeding was not finalized and in the meantime, Petitioner also attained the age of superannuation having retired from service on 31.05.2024. It is also contended that during inquiry



Petitioner was also not permitted to cross-examine the prosecution witnesses. However, it is contended that since Petitioner during subsistence of Interim order has retired on attaining the age of superannuation on 31.05.2024, the proceeding initiated under Rule 15 of the OCS (Pension) Rules, 1992 cannot proceed now against the Petitioner and the same can only proceed in accordance with the provisions contained under Rule 7 of the OCS (Pension) Rules, 1992 (in short, “1992 Rules”).

**4.5.** However, it is contended that since the Petitioner was prejudiced from the very beginning of the initiation of the proceeding, as he was not provided with the documents, the continuance of the proceeding with submission of the 2<sup>nd</sup> show-cause is accordingly vitiated and the proceeding is required to start from the stage of supply of the documents. It is accordingly contended that the matter be remitted to the Disciplinary Authority-Opp. Party No.1, to start the proceeding from the stage of submission of the documents and dispose of the same in terms of the provisions contained under Rule-7 of the 1992 Rules.

**5.** Learned Addl. Govt. Advocate on the other hand contended that since in the proceeding in question, Petitioner approached the Tribunal at the stage of issuance of 2<sup>nd</sup> show-cause and the Tribunal passed an



interim order by allowing the Petitioner to file his reply but with a restrain order that the proceeding should not be finalized and since Petitioner during subsistence of the said order, retired from his services on attaining the age of superannuation, there is no requirement to proceed in accordance with Rule-7 of the OCS (Pension) Rules. It is also contended that without filing his Written Statement of defence, Petitioner since participated in the inquiry and gave his reply to the 1<sup>st</sup> and 2<sup>nd</sup> show case, the opp. Parties be permitted to finalise the proceeding in accordance with law.

**6.** Having heard learned counsel appearing for the parties and considering the submissions made, this Court finds that while in service, a proceeding was initiated against the Petitioner vide Memorandum dt.19.01.2015 under Annexure-1. Petitioner when made an application under Annexure-2, to provide him various documents in order to enable him to file his Written Statement of defence, but as found, the said prayer was rejected vide communication dt.07.10.2015 under Annexure-3.

**6.1.** After such rejection of the Petitioner's claim, the inquiry proceeded with submission of the inquiry report and issuance of the 1<sup>st</sup> and 2<sup>nd</sup> show cause. However, no final order was passed in the Disciplinary



Proceeding, because of the interim order passed by the Tribunal on 09.07.2018.

**6.2.** However, since it is not disputed that Petitioner during subsistence of the interim order was allowed to retire on 31.05.2024, it is the view of this Court that the proceeding under Rule-15 of the OCS (Pension) Rules, 1992 cannot be proceeded further and the same can only proceed in terms of the provisions contained under Rule-7 of the OCS (Pension) Rules, 1992.

**6.3.** Not only that, since Petitioner was never provided with the documents and in absence of such documents and the Written Statement of defence, the inquiry proceeded with submission of inquiry report, it is the view of this Court that the proceeding should commence from the stage of supply of the documents.

**6.4.** Therefore, this Court while disposing the Writ Petition, directs Opp. Party No.1 to provide all the documents as required and prayed for under Annexure-2 basing on the charges framed against the Petitioner vide Memorandum dt.19.01.2015 within a period of four (4) weeks from the date of receipt of this order. Petitioner be allowed six (6) weeks time to file his written statement of defence. After such filing of Written Statement of defence, the proceeding may continue in terms of the provisions contained under Rule-7(2) of the OCS (Pension) Rules, 1992 and the



same be disposed of in accordance with law in which this Court expresses no opinion.

**6.5.** However, since Petitioner has already retired in the meantime, the proceeding be disposed of as expeditiously as possible.

**6.6.** With the aforesaid observation and direction, the Writ Petition stands disposed of.

**(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: 01-Sep-2025 19:14:24

