IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) Nos.35792 & 969 of 2025

Pradeep Kumar Kar …. ***Petitioner***

Mr. B.K. Dash, Advocate

-versus-

The Director, Textiles and Handloom, BBSR and Others …. ***Opposite Parties***

Mr. S.P. Das, ASC

CORAM:
JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
25.02.2026

Order No.

04. **1.** This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard learned counsel for the parties.

3. Since both the Writ Petitions are analogous to each other, both were heard and disposed of by the present common order.

4. W.P.(C) No.969 of 2025 was filed by the petitioner initially challenging letter dated 01.08.2024, whereby petitioner basing on audit objection for the period 2016-17 to 2020-21, was directed to deposit a sum of Rs.12,18,202/-, being the recoverable amount.

4.1. It is contended that this Court vide order dated 28.04.2025, while directing the State Counsel to obtain instruction though passed an interim order that no coercive action be taken against the petitioner basing on letter dated 01.08.2024 but on the face of such interim order, when further letter was issued on 19.07.2025 and a proceeding was also initiated on 07.11.2025, communication dated 19.07.2025 and proceeding initiated vide Memorandum dated 07.11.2025 are under challenge in W.P.(C) No.35792 of 2025.

4.2. Learned counsel for the petitioner contended that since this Court while directing the State Counsel to obtain instruction in W.P.(C) No.969 of 2025, passed an interim order that no coercive action be taken basing on letter dated 01.08.2024, letter dated 19.07.2025 under Annexure-8 could not have been issued with similar direction.

4.3. It is also contended that since the proceeding has been initiated in respect of the events starting from the year 2016-17 to 2020-21 and petitioner has retired on attaining the age of superannuation on 28.02.2023, in view of the provisions contained under Rule-7(2)(b) of the OCS(Pension) Rules, 1992, the said proceeding is not maintainable. Rule-7(2)(b) of the Rules reads as follows

> *"(b) Such departmental proceedings as referred to in Sub-rule (1) if not instituted while the Government servant was in service, whether before his retirement or during his re-employment-*
>
> *(i) shall not be instituted save with the sanction of Government;*

(ii) Shall not be in respect of any event which took place more than four years before such instruction and

(iii) Shall be conducted by such authority and in such place as the Government may, direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service."

4.4. It is accordingly contended that both the Writ Petitions be allowed with quashing of the communications issued on 01.08.2024, 19.07.2025 and so also the initiation of the proceeding vide Memorandum dated 07.11.2025.

5. Learned Addl. Standing Counsel on the other hand basing on the instruction contended that on the face of the interim order passed by this Court on 28.01.2025, letter dated 19.07.2025 when was challenged by the petitioner in W.P.(C) No.35792 of 2025, the same has been kept in abeyance in the meantime, vide office order dated 24.02.2026 so enclosed to the instruction.

5.1. It is however contended that since the proceeding in question has been initiated with regard to the events for the period from 2016-17 to 2020-21, such an initiation cannot be treated as a bar under Rule 7(2)(b) of the aforesaid Rules.

5.2. It is also fairly contended that since the proceeding has been initiated vide Memorandum dated 07.11.2025, liability of the petitioner to pay any amount, will come into play only after disposal of the proceeding in accordance with law and petitioner be directed to participate in the proceeding.

5.3. It is further contended that during pendency of the proceeding, no further action will be taken to recover the amount in question from the petitioner.

6. Having heard learned counsel for the parties and considering the submission made, it is found that petitioner after his retirement from service on 28.02.2023, when letter dated 01.08.2024 was issued to him with a direction to deposit a sum of Rs.12,18,202/- basing on audit objection for the period 2016-17 to 2020-21, the same was assailed in W.P.(C) No.969 of 2025.

6.1. On the face of the interim order passed by this Court on 28.01.2025, when a further direction was issued to pay the aforesaid amount vide letter dated 19.07.2025 and a proceeding was also initiated vide Memorandum dated 07.11.2025, the communication and the proceeding are under challenge in W.P.(C) No.35792 of 2025.

6.2. However, letter dated 19.07.2025 in the meantime has been kept in abeyance vide order dated 24.02.2026. Since as found from the proceeding, the charges relate to the period 2016-17 to 2020-21, it is the view of this Court that the proceeding is not barred as per the provisions contained under Rule-7(2)(b) of the Rules and this Court is not inclined to interfere with such initiation.

6.3. It is open for the petitioner to file his reply to the charges by taking all the pleas as are available to him. Since the proceeding has already been initiated vide Memorandum dated 07.11.2025, petitioner is directed to file his written statement of defence within a period of 6(six) weeks hence.

6.4. After filing of written statement of defence, the Disciplinary Authority-Directorate of Textile and Handloom, Odisha-Opp. Party No.2 will conclude the proceeding in accordance with law, in which this Court expresses no opinion.

6.5. However, stand taken by the petitioner in his written statement of defence shall be taken into consideration while deciding the charges. Till the proceeding is disposed of in accordance with law, no further step be taken against the petitioner for recovery of any amount basing on the audit objection.

7. Both the Writ Petitions stand disposed of.

(Biraja Prasanna Satapathy)
Judge