



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.39860 of 2023

Deepak Kumar Sahu

....

Petitioner

Ms. M. Mishra, Adv.

-versus-

State of Odisha & Others

....

Opposite Parties

Mr. C.K. Pradhan, AGA

COROM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

16.03.2026

Order
No

- 2.** **1.** This matter is taken up through Hybrid Mode.
- 2.** Heard learned counsel appearing for the parties. On the oral prayer made by the learned counsel appearing for the Petitioners, she is permitted to make necessary correction in the prayer portion of the brief in Court.
- 3.** The present Writ Petition has been filed inter alia challenging order dt.06.06.2023 so passed by Opp. party No.1 under Annexure-18.
- 4.** Learned Counsel appearing for the Petitioner contended that Petitioner while continuing in service when was removed vide order dt.01.10.2007 of Opp. Party No.1 under Annexure-8, challenging the same, Petitioner approached the Tribunal by filing O.A. No.456 of 2008. The Tribunal vide order



dt.30.11.2011 under Annexure-9, while quashing the order of removal issued the following direction.

“We therefore quash the order at Annexures-15 and 18. We direct that the applicant shall be allowed to continue as a Junior Stenographer as before with continued service benefits. We pass no order in regard to respondent No.6 for which the respondent will be free to act in accordance with law.

5. Learned counsel appearing for the Petitioner contended that challenging such order passed by the Tribunal, State approached this Court by filing W.P.(C) No.6817 of 2012. The said Writ Petition was dismissed vide order dt.25.03.2022 under Annexure-11. However, on the face of the order passed by the Tribunal, so upheld by this Court, the period 1.10.2007 to 30.07.2015 i.e. the period Petitioner remained out of employment because of the illegal order of removal, was treated as “Extraordinary Leave” instead of treating the same as “Duty for all purposes”.

5.1. It is contended that since the Tribunal while quashing the order of removal so passed on 1.10.2007 in its order dt.30.11.2011 under Annexure-9, held the Petitioner eligible to continue with continued service benefits, the period petitioner remained out of employment because of such illegal order of removal, cannot be treated as Extraordinary Leave. It is accordingly contended that the impugned order needs interference of this Court.



6. Even though notice of the Writ Petition has been issued since 20.12.2023, but no counter affidavit has been filed as yet. However, basing on the available materials, it is contended that since Petitioner because of the order of removal passed on 1.10.2007, remained out of employment, till he was allowed re-instatement, where he joined on 31.07.2015, the said period was treated as Extraordinary Leave, in terms of the provisions contained under Rule 13(2) of Appendix-10 of the Odisha Leave Rules, 1966. It is accordingly contended that the impugned order has been rightly passed.

7. Having heard learned counsel appearing for the parties and considering the submissions made, this Court finds that Petitioner while continuing in service, when was removed vide order dt.01.10.2007 under Annexure-8, challenging the same, Petitioner approached the Tribunal by filing O.A No.556 of 2008. As found, the Tribunal vide order dt. 30.11.2011 under Annexure-9 while quashing the order of removal held the Petitioner entitled to continue in service with continued service benefits. Order passed by the Tribunal so challenged by the State in WP(C) No.6817 of 2012, was also dismissed by this Court vide order dt.25.03.2022 under Annexure-11.

7.1. Taking into account the nature of order passed by the Tribunal in its order under Annxure-9, confirmed by this Court vide order under Annexure-11, it is the



view of this Court that period in question could not have been treated as Extraordinary Leave.

7.2. Therefore, while quashing the impugned order dt.06.06.2023 under Annexure-18, this Court remits the matter to Opp. party No.2 to take a fresh decision with regard to the break period of service in the light of the order passed by the Tribunal, so upheld by this Court. This Court directs Opp. party No.2 to take a fresh decision within a period of 6(six) weeks from the date of receipt of this order with due communication.

8. The Writ Petition accordingly 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: 19-Mar-2026 19:08:21

