

(2013) 07 OHC CK 0040
In the Orissa High Court
Case No : Writ Petition (C) No. 14034 of 2013

Dhaneswar Nayak

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Citation : (2013) 116 CLT 1028 : (2013) 2 OLR 217

Hon'ble Judges : M.M. Das, J;A.K. Rath, J

Bench : Division Bench

Advocate : D.R. Pattnaik and N. Biswal, for the Appellant;

Judgement

1. Heard learned counsel for the parties. The petitioner approached the Orissa Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 1751 (C) of 2013 challenging his order of transfer. The Tribunal instead of considering the grounds stated in the Original Application disposed of the said O.A. with the following direction:

As submitted by the learned counsel for the applicant and without going into the merits of the matter, a copy of the paper book be sent to Respo. No. 1 at the cost of the applicant for treating the same as representation and passing appropriate orders taking into account the submissions made in the O.A. within a period of 14 days from the date of receipt of these orders under intimation to the applicant.

It is made clear here that the merits of the matter have not been gone into and Resp. No. 1 is at liberty to pass appropriate orders in the matter on merit independently.

As regards prayer for interim orders, it is hereby directed that no coercive action in the nature of disciplinary proceeding or suspension shall be undertaken against the applicant with reference to Annexure-4 till disposal of his representation (Paper book), sent herewith.

2. This Court has already held in the case of Dr. Prafulla Kumar Sahoo Vs. State of Orissa and Others, , that the Tribunal cannot send the Original Application to the concerned authority to take a decision without deciding the issues raised before it, like a Post Office. In the instant case, the Tribunal without deciding the issue itself, by the above order, has directed the authority concerned to take into consideration the Original Application itself and take a decision within a period of two weeks. Applying the ratio of the aforesaid decision, we have no hesitation to quash the order under Annexure-5. Accordingly, the order dated 20.06.2013 under Annexure-5 is quashed and the matter is sent back to the Tribunal to consider the O.A. No. 1751 (C) of 2013 on its own merit and pass necessary orders. Since there is an interim prayer in the Original Application, the Tribunal shall do well to dispose of the said application by taking up the matter by 19.7.2013.

3. This writ petition is accordingly allowed. Urgent certified copy of this order be granted on proper application.