

(2023) 04 OHC CK 0120
In the Orissa High Court
Case No : Writ Appeal No.205 Of 2019

Sarat Chandra Parida

APPELLANT

Vs

Odisha Forest Development Corporation Ltd., Bhubaneswar
And Others

RESPONDENT

Date of Decision : 11-04-2023

Acts Referred:

Citation : (2023) 04 OHC CK 0120

Hon'ble Judges : Dr. S. Muralidhar, CJ;G. Satapathy, J

Bench : Division Bench

Advocate : B. K. Mohanty

Final Decision : Disposed Of

Judgement

1. The grievance in the present writ appeal is that by the impugned order dated 16th January, 2019, the learned Single Judge has declined to condone the delay in filing the restoration application i.e. CMAPL No.664 of 2016, which had been filed to recall the order dated 30th October, 2015 by which W.P.(C) No.746 of 2005 filed by the Appellant questioning the order passed in disciplinary proceedings awarding a punishment of stoppage of one increment without cumulative effect was dismissed for non-prosecution.

2. Learned counsel for the Appellant had explained in sufficient detail in CMAPL No.664 of 2016 as well as in Misc. Case No.339 of 2016 filed therein for condonation of delay in filing CMAPL the reasons for non-appearance of the lawyer on 30th October, 2015. It appears that after the expiry of the lawyer first engaged, the Appellant had engaged a second lawyer who did not keep him updated of the listing and dismissal of the case for non-prosecution.

3. It appears that the explanation offered by the Appellant that he had no means of knowing the above fact because he was serving at the relevant time at a remote location in Koraput appears to be a plausible one. The Court is of the view that a more liberal view ought to have been taken up on the question of

delay in filing the restoration application.

4. For the aforementioned reasons, the impugned orders dated 16th January, 2019 are hereby set aside and Misc. Case No.339 of 2016 and CMAPL No.664 of 2016 are treated as allowed. As a result, the order dated 30th October, 2015 of the learned Single Judge dismissing W.P.(C) No.746 of 2005 will stand recalled.

5. The above orders in the CMAPL were passed without any notice to the Respondents. Consequently, while setting aside those orders and restoring W.P. (C) No.746 of 2005 to the file of the learned Single Judge, this Court directs that the Registry will inform the counsel for the Opposite Parties in the aforementioned writ petition of the listing of the writ petition before the learned Single Judge in terms of the present order.

6. W.P.(C) No.746 of 2005 is restored to the file and directed to be listed before the learned Single Judge in the roster Bench on 8th May, 2023. Since the pleadings in the writ petition are already complete, in the event that the Opposite Parties do not appear before the learned Single Judge on that date, notice will be issued to them by the learned Single Judge to have them appeared in the writ petition on the date fixed by the learned Single Judge.

7. The writ appeal is disposed of in the above terms.

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