

(2009) 11 OHC CK 0029

In the Orissa High Court

Subash Chandra Das

APPELLANT

Vs

State of Orissa and Another

RESPONDENT

Date of Decision : 03-11-2009

Acts Referred:

Citation : (2010) 1 OLR 127

Hon'ble Judges : B.N. Mahapatra, J;A.S. Naidu, J

Bench : Division Bench

Judgement

1. Petitioner is working as Asst. Director of Seri-Ciilture. A disciplinary proceeding was initiated against him with regard to certain alleged overt acts said to have been committed by him while he was continuing as Asst. Director, Sericulture, Mayurbhanj. Consequently, a show cause notice was issued and charges were framed in consonance with Rule 15 of the O.C.S. (CCA.) Rules 1962. The petitioner showed cause. The authorities being satisfied that a prima facie case is made out appointed Manoj Kumar Ahuja, I.A.S., the Director of Textiles, as the Enquiring Officer. Thereafter the departmental proceedings continued and the Enquiring Officer on the basis of the materials produced before him gave preliminary report. The petitioner was directed to file his show cause.

2. The grievance of the petitioner was that without serving the enquiry report and other relevant documents, the petitioner was compelled to file his show cause. With the said grievance, he approached the State Administrative Tribunal by filing O.A. No. 1209 (C) of 2006. The Tribunal disposed of the said Original Application with the following observation:

The ends of justice would be met if we clear the dock in the Tribunal without proceeding any further in a case where procedural matters are still locked up in a wrangle. Accordingly, we dispose of this application with a direction upon the applicant that he would give reply to the second show cause issued to him within a period of one month raising therein all the contentions he has raised in the O.A. until now in order to bring to their notice if there have been any omissions and only after that the respondents would proceed to pass disciplinary orders. If

the applicant will be visited with civil consequences, then he may file afresh application with fresh cause of action.

3. Mr. Pattanayak, learned Counsel for the petitioner vehemently submits that the authorities have illegally and with material irregularities did not supply the copies of the enquiry report as well as relevant documents to the petitioner to defend his case before passing orders on the second show cause. Consequently, he submitted that the disciplinary proceeding should be quashed. In support of his submission, learned Counsel relied on the decisions of the Hon"ble Supreme Court in Union of India and others Vs. Mohd. Ramzan Khan, and Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc., .

4. A conscious reading of both the decisions however leads to a conclusion, that, in all cases where enquiry report has not been served are not required to be set aside and only in cases where the petitioner satisfies the Court that due to non-service of the enquiry report grave prejudice has been caused to him, the Court should insist upon service of the enquiry report.

In the case at hand, Mr. Pattanayak, learned Counsel for the petitioner has specifically pleaded in the writ application that due to non-supply of enquiry report great prejudice has been caused to the petitioner. It is also submitted that non-supply of the squad report and other relevant documents also prejudicially affects the rights of the petitioner and he was unable to submit a full-fledged reply.

5. After hearing learned Counsel for the parties, we find some force in the submissions made to the effect that non-supply of enquiry report to the petitioner has caused prejudice.

6. In view of the aforesaid discussions, relying on the ratio of the Md. Ramzan Khan"s case (supra), we direct the opposite parties to supply the enquiry report as well as the supporting documents (squad report) to the petitioner within a period of three weeks from today. Within two weeks thereafter, the petitioner shall file his show cause. Thereafter, the departmental proceedings shall continue and shall be disposed of in accordance with law. It is made clear that we have not expressed any opinion on the merits of the claims of the petitioner.

7. With the above directions, the writ application is disposed of.