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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.10640 of 2025

In the matter of an application under Articles 226 & 227 of the Constitution of India, 1950.

1. *Union of India, represented through the Secretary to Government of India, Ministry of Finance, Department of Revenue.*

2. *The Chairman, Central Board of Indirect Taxes & Customs, Ministry of Finance, Department of Revenue.*

3. *The Chief Commissioner, GST, Central Excise & Customs*

....

Petitioners

-versus-

Shri Deepak Niranjana Nath Pandit

....

Opposite Party

Advocates who have Appeared in this case

For Petitioners - Mr.N. Venkatraman,
Addl. Solicitor General,
Mr.P.K.Parhi, DSGI
Ms.Sephalee Das, CGC

For Opp. Party - Mr.Tushar Ranjan Mohanty,
Advocate

C O R A M :

MR. JUSTICE KRISHNA S.DIXIT

MR. JUSTICE CHITTARANJAN DASH

Date of Hearing : 23.04.2026 : Date of Judgment : 24.04.2026



PER KRISHNA S DIXIT, J.

Union Government & its officials are knocking at the doors of the Writ Court for assailing the Cuttack Central Administrative Tribunal's order dated 26.07.2024 whereby OP-employee's OA No.260/00067 of 2021, relief has been accorded to him vide paragraph 7 thereof, which has the following texts:

"On examination of the facts and issues involved in this case vis a vis the case law referred to above, we do not find any ground to defer from the view already taken by CAT, PB, New Delhi that since the applicant in the instant OA while under suspension was allowed to retire by the respondents on attaining the age of superannuation without any objection and without any initiation of departmental proceedings, the order of his suspension automatically spends its force/becomes redundant/ceased to exist, resultantly, entitling him to pay and other allowances for the period of suspension as if spent in duty. Hence, the respondents are directed to pay the applicant his salary and allowances w.e.f. his date of suspension till his retirement of course minus subsistence allowance already paid to him within a period of 60 days from the date of receipt of a copy of this order."

2. After service of notice, the OP-employee, having entered appearance through his counsel, resisted the Petition making submission in justification of the impugned order and the reasons on which it has been constructed. He very fairly submits that, although pleadings in the OA were structured in a particular way, the Tribunal treated it a bit differently and granted relief in the fact matrix of the case and therefore, this Court should loathe to interfere, the impugned order having brought up a just result. He



also drew our attention to certain paragraphs in the Written Submissions of the Petitioners, which according to him become handy for sustaining the impugned order.

3. Having heard learned ASG for the Petitioners and learned counsel for the OP, and having perused the Petition papers keeping in view the Written Submissions, as also relevant of the Rulings cited at the Bar, we grant partial indulgence in the matter as under and for the following reasons:

3.1. The vehement submission of learned ASG that the suspension can overstay the retirement of delinquent employee is bit difficult to countenance and reasons for this are not far to seek: Firstly, suspension ordinarily is resorted to in contemplation or pending a Disciplinary Enquiry or a Criminal Proceeding against an employee so that no prejudice is caused to the Public Administration. Justice M. Rama Jois, in his *Services Under the State*, Indian Law Institute, 2007 at Page.625, opines as under:

“The object of placing a civil servant under suspension is to keep him away from a position where he can interfere with the conduct of the enquiry or tamper with documentary or oral evidence in any manner or where, having regard to the nature of the charges against him, it is felt that it would be unsafe to continue to vest in him the powers of his post. It is for the disciplinary or the competent authority to consider all the facts and circumstances of the case and in its discretion, to place a civil servant under suspension.”



It hardly needs to be stated that keeping the above object in the mind, suspension is co-terminus with the employment. In other words, once an employee retires from service on attaining the age of superannuation the *vinculum juris* of Master Servant comes to an end, the suspension also comes to an end. In the case at hand, admittedly, the OP-employee has retired from service and therefore, his suspension also stood determined on the day he demitted office once for all.

3.2. The above being said, learned ASG is right in his submission to the extent that merely because the suspension is revoked or comes to an end because of superannuation of the delinquent employee under suspension, the Disciplinary Proceedings do not abate. Further, the statutory Conduct & Discipline Rules can provide for initiation of Disciplinary Proceedings even after retirement, of course subject to certain conditions & limitations. A limited *jural* relationship to the extent of holding such proceedings would subsist vide *State of Punjab v. Justice S. Dewan*, AIR 1997 SC 2388. Therefore, Petitioners need not have the apprehension that the impugned order of the Tribunal would foreclose the Disciplinary Proceedings that are pending or contemplated. To put it differently, the Disciplinary Proceedings do not abate on retirement. Similarly, the authority to initiate Disciplinary Proceeding post retirement also does not, if the Rules do provide



for such initiation after the retirement in respect of a misconduct committed pre-retirement. We hasten to add that a Service Rule may provide for fictional continuation of suspension even after an employee retires. However, no such Rule is brought to our notice.

3.3. We are told at the Bar that the OP has filed OA No.2060/2025 laying challenge to the very initiation of Disciplinary Proceedings and for the quashment of Charge Memo. The same is stated to be pending before the Tribunal. There is no dispute about the payment of subsistence allowance during the suspension period. The vehement submission of learned counsel for OP that under the provisions of Fundamental Rule 54-B, unless there is an order under sub-Rule-1, matter would not travel to sub-Rule-6 of the said F.R. and therefore, his client is entitled to have the suspension treated as on duty, appears to be attractive at the first blush. Our decision in W.P.(C) No.37720 of 2023 between *Sandeep Yadav v. UOI*, disposed off on 07.04.2026, does not much come to the aid of OP, inasmuch as it was a case of revocation of suspension by invoking the provisions of F.R. 54-B as distinguished from the abatement of suspension on superannuation. What should happen to such suspension period when the Disciplinary Proceedings are pending is a vexed question that needs to be answered taking into account a host of factors. It hardly needs to be stated that a decision is an authority for the proposition laid down in a



particular fact matrix of a case and not for all that which would logically follow from what has been so laid down said **Lord Halsbury** in *Quinn v. Leathem*, [1901] AC 495 (HL). This nuance of the matter has been lost sight of by the Tribunal. No useful purpose would be served by remanding the matter. We are of the considered view that this aspect of the matter can be examined by the Tribunal in pending OA No.2060/2025. In that connection, all contentions of the parties are kept open.

In the above circumstances, this Petition succeeds in part. The impugned order of the Tribunal is modified to the effect that the suspension of the OP abated when he demitted office on attaining the age of superannuation. What should happen to the claim of OP for treating the suspension period as duty period shall be examined by the Tribunal in the pending OA No.2060/2025. The Tribunal is requested to hear and dispose off the said OA within an outer limit of three (3) months.

Costs made easy.

Web copy of judgment to be acted upon.

(Krishna S. Dixit)
Judge

(Chittaranjan Dash)
Judge

Basu