

Government of Orissa
Political and Services Department.

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Memo. No. 8826 (69) Gen.,
OM/4-2/58.

Bhubaneswar, the 17th June, 1958.

To

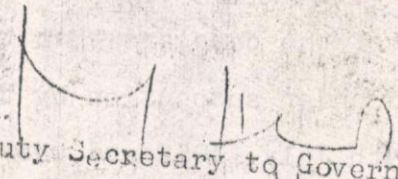
All Departments of Government
Branches of the P & S Department.
Heads of Departments.

The undersigned is directed to say that recently a Government Servant filed a petition under Art. 226 of the Constitution of India before the Orissa High Court claiming full salary and allowance for the period he was under suspension when the order of his dismissal was considered invalid by the Court. The facts of the case are that the Government servant was placed under suspension by the competent authority on the 24th July, 1952 and was dismissed on the 24th October, 1952. He filed a writ petition before the High Court against the order of dismissal, and it was pronounced by the Court on 26.4.56 that the dismissal order was invalid. The petitioner was then reinstated and placed under suspension afresh and departmental proceedings were drawn up. As a result of the proceedings he was again dismissed. During the period of his first suspension he was not paid full salary and allowances and consequently he filed the petition.

2. While dismissing the petition the Court held "There is no authority for the view that if a Government servant is suspended pending a departmental enquiry against him and is then dismissed, and if subsequently that order of dismissal is held to be invalid and inoperative that order would take effect from the date of his suspension; nor was it held by this Court in I.L.R.1955 Cuttack p. 53 that the entire proceedings against the petitioner commencing from the date of his first suspension was invalid". In view of the above observations when the High Court simply passes an order setting aside an order of discharge or dismissal of a Government servant as

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as invalid and inoperative it should not be considered
that an order of suspension pending departmental enquiry
is also invalid and inoperative.

3. The undersigned is therefore, directed to
say that when the High Court simply pronounce that the
order of discharge or dismissal of a Government servant
is invalid and inoperative, it should not be considered
that the order of suspension of the Government servant
is invalid and inoperative as well unless the
pronouncement is specifically to that effect.


Deputy Secretary to Government.
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