

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 1165 OF 2016

Hemchand Sahu S/o Shri Bharatlal Sahu, aged about 58 years, Ex.
GDS-Mail Server, Deopur, District Dhamtari (C.G.)

... Petitioner

Versus

1. Union of India, through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi- 110001
2. The Sr. Superintendent of Post Offices, (Appellate Authority) Raipur Division, Station Road, Raipur 492004 (C.G.)
3. The Sub-Divisional Inspector (Posts) Dhamtari Sub-Division, Dhamtari 493773 (C.G.)

... Respondents

For Petitioner	:	Mr. B.P. Rao, Advocate.
For Respondent-Union of India	:	Mr. R.K. Gupta, Advocate

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

06/05/2016

1. The present application arises from the order dated 17.12.2015 in O.A. No. 203/00090 of 2015 by the Central Administrative Tribunal, Jabalpur, Circuit Sitting at Bilaspur dismissing the application, declining to interfere with the order of punishment in departmental proceeding for unauthorised absence affirmed in appeal. The Tribunal opined that there being no infirmity in the decision making process no judicial review was possible. It also declined to entertain the plea that the punishment of dismissal was disproportionate to the charge for unauthorised absence.
2. The only argument urged before us on behalf of the Petitioner is that the punishment is grossly disproportionate to the misconduct.

3. The quantum of punishment in a departmental proceeding is primarily the prerogative of the employer. The question of judicial review of the quantum of punishment does not arise unless it is so disproportionate that it shocks the conscience of the Court. The Court is then required to set out the reasons why it was satisfied that it was a case warranting interference in judicial review with regard to the quantum. In the present case, we do not find that in the nature of the charge that the punishment was so grossly disproportionate so as to warrant judicial review.

4. It is always open to the Petitioner to represent before the authorities with regard to quantum of punishment. Any such representation is required to be considered by the authorities on its own merits in their own wisdom without being prejudiced by the fact that the Court may have declined to entertain the application in view of its limited jurisdiction and which does not fetter the discretion or jurisdiction of the Respondents in any manner.

5. The writ petition is disposed with the aforesaid observation.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge