

Item- 08-07-2021
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WP.CT 28 of 2020

sg Ct. 16 Union of India & Ors.
Versus
Smt. Mousumi Satapathi

(Through Video Conference)

Mr. Achin Kumar Majumdar, Adv.
Mr. Arijit Majumdar, Adv.
...for the petitioners

Mr. Ujjal Ray, Adv.
...for respondent

This writ petition is directed against an order passed by the Central Administrative Tribunal, Kolkata Bench on 7th May, 2019 in connection an application filed by the respondent challenging, inter alia, the imposition of punishment which includes recovery of a sum of Rs.1,45,000/- to be recovered over a period of time.

The facts have been meticulously stated in the order impugned. It appears from the materials on record that although, several charges have been levelled against the applicant, who was, at the relevant time, was working as a Postal Assistant, Sub-Accounts Branch under the Jhargram Head Post Office. There has been no finding that the respondent has caused any financial loss to her employer by perpetrating fraud. There is also no allegation as she has misappropriated any amount nor her employer alleged about her integrity in discharging her function. The initiation of disciplinary proceeding was on the ground that the respondent did not check the Branch Office

account daily of all the Branch Offices under Tapsia S.O. and she had failed to comprehend the falsification in the account of Tapsia S.O. being done by Sri Bhagbat Murmu.

The learned Tribunal, on consideration of the materials on record, has arrived at a finding that in absence of any charge of misappropriation or fraud being established in the disciplinary proceeding, the punishment imposed was harsh. The learned Tribunal has also taken into consideration certain lapses on the part of the disciplinary authority in conducting the proceeding while summarizing its conclusion in the following words:

“Strangely enough, Respondent authorities without affording any opportunity of hearing in a Rule 16 proceeding, without giving their reasons for such denial, without furnishing or giving inspection of all the documents as were prayed for except the documents at serial nos. 1, 2, 3, 7 (MDW of Jhargram H.O. dated 21.03.2006), 8, 9 (H.O. daily A/c of Tapsia S.O. from 01.12.2013 to 15.02.2014), 11 (S.O. Daily A/c of Tapsia S.O. from 01.01.2014 to 15.02.2014), 16, 23, 25 and without disclosing why the other documents were not relevant, despite a written request on 05.05.2014 to detail the reasons of irrelevancy and without permitting the witnesses to be examined, threatened the applicant on 15.05.2014 that in absence of her written representation within three days, the matter would be decided ex parte. Although, the applicant made prayer on 21.05.2014 to allow her three days' suitable off or 10 days' time covering one Sunday for preparation of written note of defence, ex parte order was passed on 29.05.2014 without even rejecting such prayer. In my considered opinion, while doing so, the authority has contravened and violated all norms of propriety, principles of natural justice and fair play and the mandate of O.K. Bhardwaj (supra), which made it imperative for them to hold an open inquiry, once the delinquent officer specifically asked for the same.”

On such consideration and having regard to the fact that there has been no culpable negligence on the part of the respondent in discharging her duties and that her integrity is not in doubt, we are of the opinion that the penalty imposed upon her cannot be sustained. The learned Tribunal while quashing the order has granted liberty to the writ petitioner to act in accordance with law.

On such consideration, the writ petition stands dismissed. However, there shall be no order as to costs.

All parties shall act on the basis of the server copy of this order duly downloaded from the official website of this Court.

(Amrita Sinha, J.)

(Soumen Sen, J.)