

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.14811 of 2006

Niranjan Sahoo

....

Petitioner

M/s. K. P. Mishra and associates, Advocates

-versus-

State of Orissa and others

....

Opposite Parties

Mr. S. N. Das, ASC

CORAM:

THE CHIEF JUSTICE

JUSTICE B. P. ROUTRAY

ORDER

07.03.2022

Order No.

06. 1. The challenge in the writ petition is to an order dated 18th November, 2005 passed by the Orissa Administrative Tribunal (OAT), Principal Bench, Bhubaneswar in O.A. No.2262 of 2002. The challenge in the said petition was to an order dated 2nd July, 1996 passed by the Superintendent of Police, Rayagada being the Disciplinary Authority (DA), who accepted the report of the Enquiry Officer (EO) in respect of the charges levelled against the Petitioner. The punishment of dismissal from service was awarded to the Petitioner.
2. After the statutory appeals were dismissed, the aforementioned OA was filed before the OAT.
3. According to the Petitioner, the punishment was disproportionate to the alleged misconduct. It was argued that not more than one black mark should be awarded for any offence in terms of the Rule

834 of the Orissa Police Manual (OPM) except when moral turpitude can be reasonably inferred.

4. The reasoning that weighed with the OAT for dismissing the petition reads as under:

“It appears that under Rule 836 of the Orissa Police Manual nine black marks shall entail reduction in rank or compulsory retirement or removal or dismissal. Under Rule 837(2) it is further indicated that the order awarding black marks shall specify the number of black marks outstanding against the delinquent and a warning is necessary before dismissal due to imposition of black marks. It appears from Anx.4 that on 04.10.1985 it was brought to the notice of the present applicant that he had already earned six black marks and adding two more the total black marks came to eight and accordingly he was also warned in writing to be careful in future inasmuch as another extra black mark will entail dismissal from service. In spite of such warning no attempt was made by the applicant to render good service or to improve his record in terms of the Orissa Police Manual and subsequently he went on with his usual practice of misconduct and delinquency for which in 1992-93 he was given three more black marks with due notice. Thus he earned 11 (eleven) black marks thereby justifying the order of dismissal. The disciplinary authority as well as the appellate authority took into consideration all these facts and came to a decision that the punishment of dismissal was rightly inflicted.”

5. Clearly, as far as the Petitioner is concerned, the black marks were awarded over a period of time. Way back on 4th October, 1985 itself, the Petitioner had been warned that he had already earned six black marks. Rule 834 of the OPM cannot be interpreted to mean that there cannot be more than one black mark in an entire

career; it only probably means that there cannot be more than one black mark awarded at a given point in time.

6. The Petitioner had been warned that earning of more black marks would entail dismissal from service. Despite this, during 1992-93, the Petitioner ended up earning three more black marks.

7. In the circumstances, the Court is not impressed with the argument that the Petitioner ought not to have been awarded more than one black mark. To set the record straight, the Petitioner earned as many as eleven black marks in his entire career.

8. Considering that the Petitioner was a constable in the police force where the highest degree of discipline is to be maintained, the Court does not consider the punishment awarded to be disproportionate. The writ petition is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(B. P. Routray)
Judge

M. Panda