

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 28906 of 2013

Pranab Kuma Jena

.....

Petitioner

Mr. Dillip Kumar Mohanty, Advocate

Vs.

Union of India & Ors

.....

Opposite parties

Mr.D.K. Sahoo, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

07.04.2022

Order No.

06

This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Mohanty, learned counsel for the petitioner and Mr. D.K. Sahoo, learned Central Government Counsel for the opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 29.02.2012 passed in O.A. NO.163 of 2010, by which the Central Administrative Tribunal has upheld the order of punishment imposed by the disciplinary authority confirmed by the appellate authority as well as revisional authority.

4. Mr. D.K. Mohanty, learned counsel for the petitioner contended that the order of punishment imposed by the disciplinary authority, which has been upheld by the appellate authority as well as revisional authority on the ground of barred by limitation and absence of rules, are not sustainable in the eye of law, as the Inquiring Officer reached the conclusion on conjecture and surmises without taking into consideration the vital material produced by the petitioner and that the disciplinary authority so also the appellate authority came to the conclusion without taking into consideration

the affidavit which had been produced by the petitioner in support of payment of Rs.126/- to the wife of the EDDA so as to return the Acquittance Roll on the same day as per rules. He further contended that removal and dismissal being the harsh punishment, it can only be imposed for gross misconduct. But the disciplinary authority imposed such harsh punishment of removal from service without any such finding of gross misconduct on the part of the petitioner. To prove that the report of the Inquiring Officer is based on conjecture, surmises and on no evidence, it is contended by the learned counsel for the petitioner that without verifying the authenticity of the affidavit obtained and produced from the wife of the complainant in support of the payment of Rs.126/- and/or without examining the wife of the complainant, the I.O. reached the conclusion of misappropriation based on which the disciplinary authority imposed the harsh punishment of removal from service on the petitioner. Therefore, order dated 29.02.2012 passed by the tribunal by upholding the order of punishment imposed by the disciplinary authority and the order of confirmation passed by appellate authority as well as revisional authority, is not justified and therefore, the same should be quashed.

5. Mr. D.K. Sahoo, learned Central Government Counsel contended that the petitioner, while working as GDS Branch Postmaster, Katisahi Branch Post Office in account with Kamarda Sub-Post Office under Jaleswar Head Post Office, he received Acquittance Roll with an amount of Rs.126/- towards the arrear DA to be paid to GDS Mail Delivery Agent of the said post office. The petitioner had returned the Acquittance Roll forging the signature of the GDSMD showing that the amount had been paid to the payee. On receipt of the complaint of non-payment of the arrear DA, the

matter was enquired into and prima facie evidence having been found, the petitioner was proceeded against under Rule-10 of the GDS (Conduct & Employment) Rules, 2001 vide memo dated 15.10.2001. On denial of the charge by the petitioner, the matter was duly enquired into. The Inquiring Officer held that the charge is proved, copy of the same was supplied to the petitioner giving him opportunity to submit his defence. In response to same, the petitioner submitted his defence. The disciplinary authority, after going through the report of the Inquiring Officer vis-à-vis the materials available on record and the defence submitted by the petitioner imposed the punishment of removal from service with immediate effect, vide order dated 24.02.2003. Against the said order, the petitioner preferred appeal and before disposal of the appeal, he approached the tribunal in O.A. No.500 of 2003, which was disposed of on 04.09.2003 with the direction to the opposite parties no.2 & 3 to dispose of the appeal. The appellate authority considered the appeal but did not find any ground to interfere with the order of punishment imposed by the disciplinary authority. The reason of rejection was communicated to the petitioner vide letter dated 23.01.2004. Thereafter, he filed O.A. No.949 of 2004, but the same was withdrawn, vide order dated 27.04.2005, on his request made by filing a memo, so as to remedy his grievance by preferring revision before the competent authority. Then, he preferred revision dated 23.03.2006, which was rejected by the revisional authority being barred by time and the same was communicated to the petitioner, vide letter dated 28.03.2006, which was the subject matter of challenge in O.A. No.163 of 2010. It is further contended that the tribunal, after verifying all the documents and also after giving due opportunity of hearing to the petitioner, dismissed the said O.A., vide

order dated 29.02.2012, upholding the order of punishment imposed by the disciplinary authority and confirming order passed by the appellate authority as well as revisional authority, that there was gross misconduct on the part of the petitioner. Therefore, this Court should not interfere with the order passed by the tribunal.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that it is not in dispute that an amount of Rs.126/- was to be paid towards arrear DA to the GDS Mail Delivery Agent. He had returned the Acquittance Roll forging the signature of the GDSMD showing that the amount had been paid to the payee. But actually it was not paid. On receipt of complaint of non-payment of the arrear DA, the matter was enquired into, pursuant to which the punishment of removal from service was imposed by the disciplinary authority and the same was confirmed by the appellate authority as well as revisional authority. Therefore, the order passed by the tribunal upholding the punishment imposed by the disciplinary authority, and confirming order passed by the appellate authority as well as revisional authority cannot be said to be illegal and irregular. Since procedure has been complied with, this Court is not inclined to interfere with the order of punishment passed by the disciplinary authority confirmed by the appellate authority as well as revisional authority. Therefore, the writ petition merits no consideration and the same is accordingly dismissed.

(DR. B.R. SARANGI)
JUDGE

Alok/Sukanta

(SAVITRI RATHO)
JUDGE

