

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.364 of 2018

Goutam Dalai

....

Petitioner

*Mr. S.D. Routray,
Advocate*

-Versus -

State of Orissa and another

....

Opposite Parties

*Mr. P.K. Tripathy,
Additional Government
Advocate*

CORAM:P

JUSTICE SASHIKANTA MISHRA

ORDER

14.09.2022

Order No.

5.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner was engaged as Gram Rozgar Sevak under R. R. Pur Gram Panchayat in the district of Balasore as per order dated 18.03.2008, pursuant to which he joined and started discharging his duties. A show cause notice was issued to him on 28.10.2017 by the Collector, Balasore asking him to explain as to why he shall not be disengaged for gross misconduct, dereliction of duties and giving false report hiding the truth. It was alleged that the petitioner had conducted field inquiry in R.R. Pur G.P regarding eligibility of PMAY beneficiaries 2016-17 and had submitted a report inter alia including the name of one Anadi Sahu as being eligible for the same benefit. Basing on his report, the said Anadi Sahu was sanctioned a sum of Rs. 90,000/-, which was released in his favour.

Subsequently, on an objection from another person of the said G.P an enquiry was conducted by the Accounts Officer of Jaleswar block, whereby, it was found that the beneficiary had a pucca house earlier before issuance of work order, which was not reflected in the enquiry report submitted by the petitioner. The petitioner submitted a reply explaining in detail the reasons for which the mistake had occurred. Be it noted here that pursuant to the enquiry, the beneficiary being called upon by the concerned authority, refunded the entire amount of Rs.90,000/- credited to his account. The Collector, Balasore by order dated 30.12.2017, which is impugned in the present writ application, held that the petitioner had admitted his mistake in his show-cause reply and accordingly held that he had committed gross misconduct, negligence in duty by suppressing facts and showing undue favour to an ineligible person. Accordingly, the petitioner was disengaged from the post of GRS with immediate effect.

4. It is submitted by Mr. S.D. Routray, learned counsel appearing for the petitioner that the impugned order was passed without considering the explanation submitted by the petitioner in proper perspective as also without granting any opportunity of personal hearing to the petitioner. It is further submitted that had the petitioner being granted an opportunity, he could have explained the reason for which the mistake occurred and that the said mistake was bonafide and not willful or deliberate.

5. Mr. B. P. Tripathy, learned Additional Government Advocate, on the other hand, has opposed the contentions of Mr. Routray by submitting that the detailed procedure prescribed under the OCS

(CC&A) Rules, 1962 are not applicable to the Gram Razgar Sevak. Nevertheless, a notice to show-cause was issued to him by the appointing authority and therefore, the principles of natural justice were adequately complied with.

6. After considering the rival submissions and upon going through the materials on record including the impugned order, this Court is of the view that the Collector has not stated the reasons for not accepting the explanation submitted by the petitioner in his reply to the show cause notice. Moreover, it is stated that the petitioner admitted his mistake. This Court however, after perusing the show cause reply enclosed to the writ petition finds that there is no admission as such by the petitioner, but an explanation was offered as to the reason for which the mistake occurred. There is obviously a difference between admission and explanation. Further, this is a case where the petitioner was visited with the extreme penalty of disengagement from service thereby, affecting his livelihood, which needless to say, is guaranteed under Article 21 of the Constitution of India. In such view of the matter, before imposing the extreme penalty of disengagement him from service, it was incumbent upon the Collector to apply his mind to the facts and circumstances of the case and the explanation submitted by the petitioner in the proper perspective. Had the petitioner been granted an opportunity of hearing obviously, the Collector would have been in a better position to appreciate his contentions. Since this was not done, this Court is of view that it cannot be said that the principles of natural justice were followed as contended by learned State Counsel.

7. For the foregoing reasons therefore, this Court holds that the impugned order cannot be sustained in the eye of law and is therefore quashed. The matter is remitted to the Collector, Balasore with a direction to dispose of the same afresh after considering the explanation submitted by the petitioner to the show cause notice issue to him in the proper perspective and by granting an opportunity of personal hearing to him. It is needless to mention that the Collector, Balasore shall pass a reasoned order in accordance with law. The entire exercise shall be completed within a period of six weeks from the date of communication of this order or on production of certified copy thereof by the petitioner.

8. The writ petition is disposed of.

9. Urgent certified copy of this order be granted on proper application.

(Sashikanta Mishra)
Judge