

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 25079 of 2012

Nagendra Prasad

.....

Petitioner

Mr. N. Biswal, Advocate

Vs.

Union of India and others

.....

Opposite parties

Mr.P.S. Nayak, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

15.03.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. N. Biswal, learned counsel for the petitioner and Mr. P.S. Mishra, learned CGC.

3. The petitioner files this writ petition seeking to quash the order dated 07.03.2012 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 257 of 2010, and to direct the opposite parties to restore the petitioner to the post of Station Superintendent with all consequential benefits with effect from 21.01.2010, i.e. the date on which the order of punishment was quashed in O.A. No. 829 of 2016.

4. Mr. N. Biswal, learned counsel for the petitioner contended that the petitioner, while working as Station Superintendent, Waltair Division, East Coast Railways, having been proceeded against departmentally, had been imposed with the punishment of reduction to the post of AMN for a period of three years, vide order dated 15/21.04.2004. Being aggrieved by such order, the petitioner approached the Central Administrative Tribunal by filing O.A. No. 829 of 2006, which was disposed of with the

following observation/direction:-

“Supply of enquiry report before imposition of punishment by the DA to the delinquent is no more res Integra and requires no authority, in view of subsequent rules made by the Railway and by the Government in this respect. Similar is the situation of passing of the speaking order by the Appellate Authority. Supply of report of the IO is a vital component of principles of natural justice. The non-supply of enquiry report before imposition of the punishment in the present has neither been disputed by the Respondents in the counter field in this case nor in course of hearing. Hence, without going to any other points raised/canvassed by learned counsel for the applicant in his pleadings as also in course of hearing the impugned order of the Disciplinary Authority under Annexure - 8 dated 15.11.2004 and consequently the order of the Appellate Authority and Revisional Authority are hereby quashed. AS a consequence, the matter is remitted back to the Disciplinary Authority to supply a copy of enquiry report to the applicant giving him opportunity to submit his reply. Consequent upon receipt of such reply within the time to be granted to him, the Disciplinary Authority is free to pass order as would be deemed fit and proper in the facts and circumstances of the case. Thereafter, if the applicant has still any grievance, he is free to avail of the opportunity as per rules and law.

5. After the matter was remitted back, the Disciplinary Authority, giving opportunity of hearing to the petitioner, affirmed the order of punishment imposed by them, i.e. reduction to the post of ASM for a period of three years, which was also affirmed in the appeal. Again the petitioner was subjected to another disciplinary proceeding, wherein the punishment of reversion for indefinite period was imposed, against which the petitioner preferred O.A. No. 830 of 2006 before the Tribunal. The Tribunal, vide order dated 29.01.2020, disposed of the Original Application with the observation that the reversion for indefinite period cannot sustain in the eye of law and accordingly the matter was remitted back to the authority for re-adjudication. After such remittance, the disciplinary authority, giving due opportunity to the petitioner

passed orders by imposing punishment of reversion for a period of seven years.

6. It is contended that with regard to the question whether the punishment imposed pursuant to the remand order passed in O.A. No. 829 of 2006, i.e. three years reversion, and the punishment imposed pursuant to the remand order passed in O.A. No. 830 of 2006 i.e. seven years reversion, will run concurrently or independently, the authorities have stated that the petitioner has to visit first the penalty for three years reversion imposed in compliance to the order passed in O.A. no. 829 of 2006, and thereafter he will visit seven years reversion imposed in compliance to the order passed in O.A. No. 830 of 2006. The said decision is the subject matter of challenge before the Tribunal in O.A. No. 94 of 2014.

7. In view of such position, this Court remands the matter to the Central Administrative Tribunal, Cuttack Bench, Cuttack, to dispose of the O.A. No. 94 of 2014 as expeditiously as possible after giving due opportunity of hearing to the parties concerned.

8. With the above observation and direction, the writ petition stands disposed of.

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Arun