

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 29228 of 2013

Gouri Shankar Mishra

.....

Petitioner

Mr. A.K. Mohapatra-1, Adv.

Vs.

*Shri Jagannath Temple
Managing Committee & others*

.....

Opposite parties

Mr. A.K.Mishra,Adv.

CORAM:

MR. JUSTICE V.NARASINGH

ORDER

19.07.2022

Order No.

09.

1. This matter is taken up through hybrid mode.
2. Heard Mr. A.K.Mohapatra. learned counsel for the Petitioner and Mr. A.K.Mishra, learned counsel for Opposite Parties 1 & 2, i.e., Shri Jagannath Temple Managing Committee and Chief Administrator, Shri Jagannath Temple.
3. The Petitioner was engaged as 'Barakandaj' in the establishment of Shri Jagannath Temple, Puri. During his incumbency as such, certain charges were levelled and the disciplinary proceeding was initiated against him. It is stated that after following due procedure the charges leveled against the Petitioner were proved, and Enquiry Officer suggested punishment of stoppage of one increment with cumulative effect and issuance of warning.
4. The Disciplinary Authority disagreed with such recommendation and passed the order of dismissal from service.

5. Being aggrieved by the same, the Petitioner approached this Court by filing OJC No. 13923 of 1999 and by order dated 18.11.2009 this Court disposed of the said writ petition. The operative part of the said order at paragraph-7 is quoted hereunder.

“7. In the instant case, we have scrutinized the reasons of the disciplinary authority and found that it had taken the final decision without giving any opportunity of hearing to the petitioner at the stage at which it proposed to differ with the findings of the Inquiry Officer as well as the proposed punishment. Such conclusions having been arrived at behind the back of the petitioner, the same are sufficient to vitiate the findings recorded by the Disciplinary. Consequently, we set aside the order dated 3.6.1994(Annexure-3) as well as Annexure-4 and remit the matter to the Administrator of Sri Jagannath Temple with a direction to issue notice to the petitioner and thereafter proceed strictly in accordance with law. It is made clear that we have not delved into the merits of the case and it would be open to the disciplinary authority to pass such orders as deemed just and proper.”

6. Pursuant to the direction of this Court, the Chief Administrator, Shri Jagannath Temple passed order dated 19.04.2012 at Annexure- C (counter affidavit). Assailing the operative part of the said order, which is quoted hereunder, the petitioner has filed the present writ petition.

“After careful consideration of the charges leveled against the delinquent and going through the report of

the Enquiring Officer, it is found that the charges have been fully established against the delinquent. Hence, it is ordered that the delinquent, Sri Gourisankar Mishra is removed from the service and his period of suspension will be treated as such.”

7. It is stated at the bar that the order passed by the Chief Administrator is appealable in terms of Regulation of 15 of Shri Jagannath Temple (Employees’ Conditions of Service) Regulations, 1967(hereinafter referred to as “Regulations, 1967”) read with Section 24(1) of the Shri Jagannath Temple Act(hereinafter referred to as “Act”).

8. For convenience of ready reference Regulation 15 of the Regulations, 1967 and Section 24(1) of the Act are quoted here under.

“Sec.24(1)- Any person aggrieved by any order passed by the Chief Administrator under this Act, or rules, or Regulations made there under may, within 30 days of the communication of the order to him, prefer an appeal before the Committee.”

“Regulation15. An employee aggrieved by an order imposing any penalty on him may prefer any appeal before the Committee whose orders thereon shall be final”

9. Mr. Mohapatra learned counsel for the petitioner submits with vehemence that only the operative portion of the Chief Administrator’s order was communicated to him. The same is disputed by the learned counsel appearing for the temple administrative inasmuch as it is submitted that on a bare perusal of the order passed by the Chief Administrator, it can be seen that the

petitioner has quoted the same in the order impugned, i.e., Annexure-10

10. Be that as it may, since admittedly effective alternative remedy by way of appeal is provided for in the Act and Regulations quoted hereinabove and the matter is pending in this Court since 2013, this Court feels that ends of justice would be sub served, if the petitioner is allowed to prefer appeal in terms of Section 24(1) of the Act and Regulation 15 thereof.

11. Accordingly, it is directed that, if the petitioner prefers an appeal within a period of four weeks from today along with a certified copy of this order against the order passed by the Chief Administration, copy of the which has been annexed as Annexure-C to the counter affidavit, the Appeal Committee shall hear and dispose of the same on merits within a period of eight weeks from the date of filing of the appeal after giving opportunity of hearing to the petitioner.

12. It is needless to say that the Appellate Authority shall take into account the import of the order passed by this Court in OJC No. 13923 of 1999 dated 18.11.2009 extracted hereinabove relating to quashing of the order of punishment dated 3.06.1994(Annexure-3) and appellate order Annexure-4 in the said writ petition.

13. Accordingly, the writ petition stands disposed of.

(V.NARASINGH)
JUDGE

Dhal