

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No.10967 of 2022

Damodar Sahu

.....

Petitioner

Mr. N.C. Das, Advocate

Vs.

Union of India and others

.....

Opposite Parties

Mr. D.R. Bhokta, C.G.C.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

16.09.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. N.C. Das, learned counsel for the petitioner and Mr. D.R. Bhokta, learned Central Government Counsel appearing for the opposite party-Union of India.

3. The petitioner has filed this writ petition seeking direction to opposite parties no.3 & 4 to release the Full Salary Cost of the petitioner w.e.f. 22.03.2018 to 06.04.2021, as admissible to him in terms of Sub-rules 6 & 7 of Rule-10 of CCS (CCA) Rules, 1965, within a stipulated period, by quashing the order dated 13.09.2021 under Annexure-3 and the order dated 21.04.2021 under Annexure-5 as well as declaring the order dated 22.03.2018 under Annexure-1 as null and void.

4. Mr. N.C. Das, learned counsel appearing for the petitioner contended that the petitioner was placed on suspension vide order dated 22.03.2018 in exercise of powers conferred by Sub-rule (1) of Rule-10 of Central Civil Services (Classification, Control and

Appeal) Rules, 1965. It is further contended that the said order of suspension was extended vide order dated 21.06.2018 for another period of 180 days w.e.f. 23.06.2018 pursuant to decision of the review committee. Therefore, such action of the authority is arbitrary, unreasonable and contrary to the rules and seeks for quashing of the same.

5. Mr. D.R. Bhokta, learned Central Government Counsel appearing for the opposite party-Union of India vehemently contended that the petitioner having placed on suspension, before expiry of the period, the review committee was constituted to review the same and after review, the period of suspension was extended for another period of 180 days in terms of Sub-rules 6 & 7 of Rule-10 of CCS (CCA) Rules, 1965. Therefore, no illegality or irregularity has been committed by giving such extension.

6. Having heard learned counsel for the parties and after going through the records, it appears that the petitioner was placed on suspension by the Superintendent of Post Offices, Phulbani Division, Phulbani under Rule (1) of Rule 10 of CCS (CCA) Rules, 1965 and after review made by the review committee, the period of suspension was extended vide order dated 21.06.2018 w.e.f. 23.06.2018. It is contended that after completion of disciplinary proceeding, the petitioner was imposed with punishment of dismissal from service vide order dated 06.04.2021. Therefore, he submitted a representation on 07.07.2021, for release of his full salary as admissible to him, which was rejected by opposite party no.3 vide order dated 13.09.2021. It is further contended that since the extension of suspension was not done within the period of 90 days as per Sub-rules-6 & 7 of Rule 10 of

CCS (CCA) Rules, 1965, the order dated 21.06.2018 cannot sustain in the eye of law. But fact remains, petitioner was placed under suspension vide order dated 21.06.2018 and the same was reviewed by the review committee on 14.06.2018. The purpose of review is that the period of suspension should not be unnecessarily prolonged but if plausible reasons exist and the authorities manning the department feel that the suspension needs to be continued merely because it is for a long period that does not invalidate the suspension. This view has been supported by the decision of the apex Court in ***Union of India v. Rajiv Kumar Bani Singh*** (Civil Appeal No.5007 of 2003 and Appeal (civil) No.5008 of 2003, disposed of on 18.07.2003).

7. Learned counsel appearing for the petitioner also contended that if the suspension order itself is invalidated in view of Sub-rules 6 & 7 of Rule 10 of CCS (CCA) Rules, 1965, the petitioner is entitled to get full salary cost for the period he was under suspension. The petitioner also raised question with regard to the minutes of the review committee vis-à-vis one of the member putting his signature on wrong date i.e. 13.06.2018 whereas the meeting was held on 14.06.2018. The contention raised by learned counsel for the petitioner cannot have any justification in view of factual matrix of the case itself. As such, the Tribunal has dealt with the same in paragraph-6 of the order. As a consequence thereof, the contention raised by learned counsel for the petitioner that there is non-compliance of Sub-rules 6 & 7 of Rule 10 of CCS (CCA) Rules, 1965, cannot sustain in the eye of law.

8. In compliance of the order dated 22.08.2022, learned Central Government Counsel filed an affidavit, paragraph-3

whereof states as follows;

“3. That the petitioner was placed under suspension by the opp. Party no.5 under the provisions of Sub-Rule-1 of Rule-10 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 on 22.03.2018. As per provisions laid down under Sub-Rule-6 of Rule-10 of Central Civil Services (Classification, Control and Appeal) Rules, 1965, the case of suspension of the petitioner was reviewed by the review committee constituted under the chairmanship of Director Postal Services, Sambalpur Region, Sambalpur on 14.06.2018 i.e. within 90 days from the date of placing the petitioner under suspension. Since the review was made within the period of 90 days, further extension of suspension to the petitioner was valid and nothing irregularities there in”.

9. In view of such position, the claim made by the petitioner cannot have any justification so as to extend the benefit of full salary cost during the period of suspension. Apart from the same, the departmental proceeding was initiated under Rule-14 of CCS (CCA) Rules, 1965 and the petitioner was awarded with penalty of dismissal from service, vide order dated 06.04.2021 passed by Superintendent of Post Offices, Phulbani Division, on finalization of Rule-14 proceedings by observing due procedure and in accordance with the provisions laid down under Rule-11(ix) of CCS (CCA) Rules, 1965. Thus, this Court does not find any error in the order dated 21.04.2022 passed by the Tribunal in O.A. No.592 of 2021 so as to cause interference of this Court.

10. Accordingly, the writ petition merits no consideration and the same is dismissed.

(DR. B.R. SARANGI)
JUDGE

Alok/Subhasmita

(G. SATAPATHY)
JUDGE