

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 9084 of 2015

Prafulla Kumar Mishra

.....

Petitioner

Mr. G.R. Sethi, Adv.

Vs.

Registrar, Orissa State

.....

Opposite parties

Administrative Tribunal, Cuttack

Mr. B.P. Tripathy, AGA

Bench and others

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

19.04.2022

Order No.

04.

This matter is taken up through hybrid mode.

2. Heard Mr. G.R. Sethi, learned counsel for the petitioner and Mr. B.P. Tripathy, learned Addl. Government Advocate.

3. The petitioner has filed this writ petition seeking to quash the order dated 16.09.2014 passed in O.A. No. 2311 of 2010, by which the Odisha Administrative Tribunal, Cuttack Bench, Cuttack has upheld the penalty imposed on the petitioner stating inter alia that there was no procedural infirmity in the conduct of disciplinary proceeding and enquiry against the petitioner.

4. Mr. G.R. Sethi, learned counsel for the petitioner contended that the punishment imposed on the petitioner for forfeiture of increment for a period of one year with cumulative effect carrying the value of “two black marks” and treat the period of suspension from 31.05.1997 P.M. to 08.06.1997 P.M. as such, is not contemplated under PMR-834. Thereby, imposition of such penalty cannot sustain in the eye of law.

5. Mr. B.P. Tripathy, learned Addl. Government Advocate contended that on close scrutiny of the provisions contained under PMR-834, it appears that punishment can also be imposed and,

therefore, the contention raised by learned counsel for the petitioner to the contrary cannot sustain in the eye of law.

6. Having heard learned counsel for the parties and after going through the records, the sole question falls for consideration by this Court is whether imposition of penalty on the petitioner for forfeiture of increment for a period of one year with cumulative effect carrying the value of “two black marks” and treat the period of suspension from 31.05.1997 P.M. to 08.06.1997 P.M. as such, is legally tenable or not.

7. For just and proper adjudication of the case, PMR-834 is quoted below:-

“834. (a) Imposition of black marks :- Black marks may be awarded alone or in addition to other punishments enumerated in Rule 824 except dismissal or removal, to all officers of and below the rank of inspector.

No more than one black mark shall be awarded or any one offence except when moral turpitude can reasonably be inferred.

(b) Three black marks shall ordinarily entail reduction or forfeiture or withholding of an increment, the period of which shall be specified in the order and, after the period is over the officer will be restored to his former position. Such reduction or forfeiture or withholding of increment shall not carry any black mark value.

(c) It shall be left to the discretion of the officer awarding the third black mark to waive the penalty noted in clause (b). In exercising this option, he shall consider-

- (i) the officers for which the previous black mark were awarded;
- (ii) the length of time that has elapsed since they were awarded;
- (iii) any good service the defaulter may have to his

credit.”.

8. As per the provisions contained in PMR-834, black marks may be awarded alone or in addition to other punishments enumerated in Rule-824, except dismissal or removal, to all officers of and below the rank of Inspector. Therefore, PMR-824 has also relevance for imposition of penalty, which is extracted hereunder:-

“824. Description of departmental punishments: - The following punishments may be inflicted departmentally on a police officer below the rank of Deputy Superintendent –

(a) Dismissal,

(b) Removal ,

¹[b-1]- Compulsory retirement ; and]

(c) Reduction in rank,

(d) Reduction in time – scale.

(e) Withholding of the next increment for a specific offence, with or without corresponding postponement of subsequent increments,

(f) Black mark of marks.

(g) Removal from any office of distinction or specific emolument,

(h) Censure,

(i) Warning

(j) Confinements to quarters for a period not exceeding 15 days,

(k) Punishment drill, and

(l) Extra guard or other duty;

Provided that the punishments mentioned in Clauses (i) to (m) shall not be imposed on any officer of or above the rank of Sub-Inspector nor the punishment mentioned in (I) on any Assistant sub-inspector, Constable of Ordinary reserve and Havildar of Armed Reserve.

Punishments mentioned in Clauses (a) to (h) are

classed as major and the rest are minor. All major punishments and censure shall be entered in the service book other minor punishments may be so entered if the officer awarding the punishment so directs.”

9. On conjoint reading of PMR-834 with PMR-824, it appears that power has been vested with the authority to impose punishment of awarding black marks, in addition to other punishments enumerated in Rule-824, which also includes black marks under sub-clause (f), as mentioned above. Thereby, the contention raised by learned counsel for the petitioner, that such a punishment, which has been awarded against the petitioner, has not been contemplated in the Rules itself, does not have any substance. More so, the tribunal, while adjudicating the matter, taking into consideration all aspects, has come to a conclusion stating inter alia that there was no procedural infirmity in the conduct of disciplinary proceeding and enquiry against the petitioner. As such, petitioner himself admitted charge no.1 of not being in uniform during duty hours, which was established. Though no cash was seized from him during the process of checking, the enquiry report shows that there was traffic congestion at Gopalpur TAP when the IIC Traffic P.S. Cuttack, Sri T.R. Das and another S.I. Sri Bikash Das inspected the TAP. The enquiry report also shows that the drivers of vehicle had formed a queue in front of the TAP to get their documents verified by the petitioner, who was sitting in Officer's Chair, though he had no business to verify such documents, as he was not authorized to do so. The petitioner was to attend VHF duty and not checking of the documents of the vehicles at TAP and thus the

same causing congestion, which attracted attention of the authorities. Accordingly, the enquiry officer has held that the petitioner is guilty of charges of in-disciplined conduct and negligence in duty.

10. In such view of the matter, this Court is of the considered view that the order impugned passed by the tribunal is well justified which does not warrant interference of this Court.

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

(DR. B.R. SARANGI)
JUDGE

(SAVITRI RATHO)
JUDGE

Ashok/Puspa

