

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.11161 of 2019

Union of India & Anr.

.....

Petitioners

*Mr. G.Mohanty, Sr. Panel
Central Government Counsel*

Vs.

Akshya Kumar Champati

.....

Opposite parties

Mr. N.R.Routray, Adv.

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. MISHRA

ORDER

06.07.2022

Order No.

07.

This matter is taken up through hybrid mode.

2. Heard Mr. G. Mohanty, learned Senior Panel Central Government Counsel appearing for the Petitioners and Mr. N.R. Routray, learned Counsel appearing for the Opposite Party.

3. The Union of India-Petitioners have filed this Writ Petition seeking to quash the Order dated 16.01.2019 passed in O.A. No. 18 of 2011, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has quashed the Order dated 29.06.2010 passed by the Authority and remitted the matter back to Petitioner No.1 to reconsider the case of the Opposite Party, as per law in the light of discussion made by the Tribunal, and dispose of the petition of the Opposite Party by passing a fresh speaking and reasoned order by imposing any punishment other than dismissal and removal from service as per the provisions of law, within a period of two months.

4. Mr. G. Mohanty, learned Senior Panel Central Government Counsel appearing for the Petitioners contended that though they have filed this Writ Petition but during pendency of the Writ

Petition the Order of the Tribunal has already been complied with, which is evident from the Counter Affidavit filed by the Opposite Party, wherein it is stated that the Order of the Tribunal has already been implemented by the Petitioners by passing a reasoned order. Therefore, nothing remains to be adjudicated in the present Writ Petition.

5. Having heard learned Counsel for the parties and after going through the records, this Court finds that in the Counter Affidavit filed by the Opposite Party following have been stated in Paragraphs-3, 4 and 5, read thus:-

“3. That, the petitioners being aggrieved with order dtd.16.01.2019 have filed this Writ Petition along with I.A.No.9034/ 2019 for stay of the order passed by the learned C.A.T., Cuttack Bench, Cuttack. As this Hon'ble Court did not grant any interim order, the Opp.Party No.1 has implemented the order of learned Tribunal vide speaking order dtd.20.08.2019. The operative portion of the speaking order is quoted below;

*“However, in obedience to the order dated 16.01.2019 passed by the Hon'ble CAT, Cuttack Bench, Cuttack in OA No.18/ 2011 & order dated 01.08.2019 passed by the Hon'ble Orissa High Court, Cuttack in W.P.(C) No.11161 of 2019, I, Dr. S.K. Kamila, Chief PMG, Odisha Circle, Bhubaneswar make a review of the earlier decisions and stand taken by the departmental authorities take lenient view hereby and modify the punishment order of “Removal from service with immediate effect” to that of **“Compulsory Discharge from engagement with monetary benefits (i.e. SDBS etc.) and GDS gratuity proportionate to engagement period rendered by GDS, as per conditions laid down in the DG Posts O.M. No.17-31/ 2016-GDS dated 27.06.2018. It is further ordered that the period for the date of removal from service to the date of compulsory Discharge from engagement will be treated as non duty for all purposes.”***

Copy of speaking order dtd.20.08.2019 enclosed to this Counter Affidavit as Annexure-A.

4. That, the petitioner humbly and respectfully submitted here that the petitioner No.1 has been imposed the punishment of ‘compulsory discharge from engagement’ vide speaking order dtd. 20.08.2019, which is not a prescribed punishment under the Rules. For the better appreciation of

the Hon'ble Court the punishment under GDS Conduct and Engagement Rules is quoted below;

"(i) Censure;

(ii) Debarring of a Sevak from appearing in the recruitment examination for the post of Postman and/ or from being considered for recruitment as Postal Assistants/ Sorting Assistants for a period of one year or two years or for a period not exceeding three years;

(iii) Debarring of Sevak from being considered for recruitment to Group 'D' for a period not exceeding three years;

(iv) Recovery from Time Related Continuity Allowance of the whole or part of any pecuniary loss caused to the Government by negligence or breach of orders;

(v) Removal from employment which shall not be a disqualification for future employment;

(vi) Dismissal from employment which shall ordinarily be a disqualification for future employment."

5. That, the petitioner humbly and respectfully submitted here that in view of speaking order dtd.20.08.2019 the prayer of the Writ Petition become infructuous for which no detailed reply to the stand taken in the Writ Petition is required."

6. In the above view of the matter, since the Order of the Tribunal has been complied with by the Petitioners, nothing more remains to be adjudicated in the present case itself.

7. Accordingly, the Writ Petition stands disposed of as infructuous.

(DR. B.R. SARANGI)
JUDGE

(S.K. MISHRA)
JUDGE

Ashok/PCD