

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 28124 of 2020

Rajendra Mishra

.....

Petitioner

Mr. B.S. Tripathy, Adv.

Vs.

*Appeal Committee, High Court of
Orissa and others*

.....

Opposite Parties

Mr. A.K. Mishra, AGA

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE G. SATAPATHY

ORDER

23.09.2022

Order No.

02.

This matter is taken up through hybrid mode.

2. Heard Mr. B.S. Tripathy, learned counsel for the petitioner and Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State-Opposite Parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 17.04.2019 passed by the Appeal Committee vide Annexure-10 and to issue direction to the opposite parties to treat the period of suspension, i.e., from 03.08.2017 to 30.04.2018 either as leave or spent on duty, and extend all the service and consequential benefits in his favour.

4. Mr. B.S. Tripathy, learned counsel for the petitioner contended that the petitioner was charged for his behaviour and refusal to perform the duty assigned to him for his own admission about the disobedience of orders of the superior authorities and also for fabricating false document as the Government servant, which amounts to misconduct, for which the disciplinary authority imposed penalty of dismissal from service treating the period of suspension i.e. from 03.08.2017 to 30.04.2018 as such, passed by the District Judge in D.P. No.2 of 2017. Against the said order, the

petitioner preferred appeal and the Appeal Committee, after due adjudication, passed order modifying the punishment imposed by the disciplinary authority to the extent that his two consecutive annual increments shall be withheld without cumulative effect and that his period of suspension shall be treated as such. Further, the Appeal Committee directed the petitioner to file an undertaking stating therein the nature of work he knows and willing to perform before the District Judge, Dhenkanal within one month and if such undertaking is filed, he shall be reinstated in service subject to satisfaction of the District Judge. It is contended that the punishment imposed on the petitioner cannot sustain, as he was appointed as Peon but he has been directed to discharge the duties and responsibilities of sweeper which post he was not holding.

5. Mr. A.K. Mishra, learned Addl. Government Advocate appearing for the State-Opposite Parties contended that the petitioner has refused to perform the duty assigned to him and disobeyed the orders of the higher authority. Therefore, by following due procedure, he was dismissed from service and against the said order when the petitioner preferred appeal, the Appeal Committee after considering all the grievance made by the petitioner passed the order. Therefore, the said order does not require any interference of this Court.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the petitioner was charged for his behaviour and refusal to perform the duty assigned to him for his own admission about the disobedience of orders of the superior authorities and also for fabricating false document as the Government servant, which amounts to misconduct. Therefore,

the enquiring officer, on consideration of the materials available on record and taking into consideration the past conduct of the petitioner, found the petitioner guilty of all charges levelled against him in the departmental proceeding and recommended punishment of withholding three annual increments with cumulative effect. The disciplinary authority, on perusal of the report of the enquiring officer, fully agreed with the findings of the enquiry officer and passed order for issuance of show cause notice to the petitioner as to why major punishment like removal from service or dismissal from service shall not be imposed on him. In compliance thereof, the petitioner filed reply to the notice of show cause and after considering the reply to the show cause and past conduct of the petitioner, the disciplinary authority passed order of dismissal from government service with immediate effect and to treat the suspension period of the petitioner as such. Against the said order, the petitioner preferred appeal and the Appeal Committee after considering the materials available on record, modified the penalty imposed by the disciplinary authority by withholding his two consecutive annual increments without cumulative effect, but directed that his period of suspension would be treated as such. The Appeal Committee also directed the petitioner to file undertaking stating therein the nature of work he knows and willing to perform before the District Judge, Dhenkanal within one month. Therefore, this Court does not find any illegality or irregularity in the order passed by the Appeal Committee so as to warrant interference with the same. More so, the petitioner is a Class-IV employee and the duties and responsibilities assigned to him, he has to perform the same.

Therefore, since the petitioner had shown undue disregard to the order passed by the authority, the order of punishment which has been imposed by the disciplinary authority and subsequently modified by the Appeal Committee, is well justified.

7. However, after some arguments were advanced, Mr. B.S. Tripathy, learned counsel appearing for the petitioner states that the petitioner does not want to press this writ petition and may be permitted to withdraw the same.

8. In view of the above submission, the writ petition stands dismissed as withdrawn.

(DR. B.R. SARANGI)
JUDGE

(G. SATAPATHY)
JUDGE

Ashok/Kishore

