



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9868 of 2023

Gouri Shankar Mishra

....

Petitioner

Mr. V. Mohapatra, Advocate

-versus-

**Shri Jagannath Temple
Managing Committee,
Puri & Ors.**

....

Opposite Parties

Mr. S.A. Swain, Adv. for O.Ps.

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

05.05.2026

Order No.

- 08.** 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.
- 2.** Heard learned counsel appearing for the Parties.
- 3.** The present Writ Petition has been filed *inter alia* with the following prayer:-

“Therefore, it is prayed that this Hon'ble court will graciously be pleased to issue Rule Nisi calling upon the opposite parties to show cause as to why the order contained in Annexures-10 confirmed order contained in Annexure-12 shall not be quashed;

AND

Why the opposite parties shall not reinstate the petitioner in service forthwith and grant him all the consequential service and financial benefits accruing there from;



AND

If the opposite parties fail to show cause or show insufficient or false cause, the said Rule may be made absolute;

AND

For which act of kindness, the petitioner as in duty bound shall ever pray."

4. It is contended that Petitioner entered into service under the Opposite Parties as a BARAKANDAJ in the year 1978. While so continuing, basing on the report submitted by the Asst. Commandant Shri Jagannath Temple Administration on 20.11.1993, that Petitioner was absent from duty for the period from 11.30 AM to 1.45 P.M. on 20.11.1993, Petitioner was issued with the notice on 19.03.1994 under Annexure-1.

4.1. It is contended that Petitioner though submitted a reply, but in order to cause further enquiry with regard to the charges so reflected in letter dtd.20.11.1993, Enquiry Officer was appointed vide order dtd.13.04.1994 under Annexure-2.

4.2. Learned counsel appearing for the Petitioner contended that in the enquiry so conducted the Enquiry Officer after completing the enquiry though proposed the punishment of stoppage of one increment with cumulative effect, but without providing a copy of the enquiry report to the Petitioner, Petitioner when was dismissed from his services vide order



dtd.03.06.1994 under Annexure-3 and the same was upheld vide order dtd.09.11.1998 of the appellate authority under Annexure-5, Petitioner challenging both the orders approached this Court by filing OJC No.13923 of 1999. This Court vide order dtd.18.11.2009, while quashing both the orders under Annexure-3 & 5 remitted the matter to Opposite Party No.3, to issue a fresh notice to the Petitioner and to proceed in the proceeding in accordance with law.

4.3. Learned counsel appearing for the Petitioner contended that since in the enquiry so conducted by the Enquiry Officer, the Enquiry Officer proposed the punishment of stoppage of one increment with cumulative effect, after remand of the matter by this Court and in view of the provisions contained under Regulation-11 of Shri Jagannath Temple (Employees Conditions of Service) Regulations, 1967, (in short 'Regulation') the disciplinary authority –Opposite Party No.3, while proposing the punishment of dismissal should have assigned reason for differing with the view of the Enquiry Officer. Rule-11(11) of the Regulation reads as follows:-

“11(11) The Disciplinary Authority shall, if it is not the enquiring authority consider the record of enquiry and record its findings on each charge and determine what penalty, if any, should be imposed on the employee and pass such orders as may be deemed proper in the case. The orders to be passed by the Disciplinary Authority may be different from what has been



recommended by enquiring authority but in such a case the Disciplinary Authority would state the reason for differing with the recommendation of the enquiring authority.”

4.4. It is contended that on the face of the stipulation contained under Regulation-11(11) of the Regulation the disciplinary Opposite Party No.3 while issuing the notice dtd.18.06.2010 under Annexure-6 by proposing the punishment of dismissal, did not assign any reason, for differing with the view of the enquiry officer. But the disciplinary authority only by taking a plea that he does not agree with the punishment suggested by the Enquiry Officer, issued the notice dtd.18.06.2010 under Annexure-6, proposing the punishment of dismissal.

4.5. It is contended that since no reason was assigned by the disciplinary authority - Opposite Party No.3 in terms of Regularization-11(11) of the Regulation, no such punishment of dismissal, could have been proposed, vide notice dtd.18.06.2010 under Annexure-6.

4.6. It is however contended that Petitioner though filed his reply to the notice vide Annexure-7, but without proper appreciation of the same, Petitioner was again imposed with the punishment of dismissal vide order dtd.25.04.2012 under Annexure-10. Petitioner though moved the appellate authority, but the appellate authority while complying with the order



passed by this Court in W.P.(C) No.29228 of 2023, rejected the appeal, vide order dtd.23.11.2022 under Annexure-12.

4.7. Learned counsel appearing for the Petitioner contended that in the case in hand, first of all no appropriate proceeding was initiated against the Petitioner, save and except the notice issued vide letter dtd.19.03.1994, enclosing the complaint dtd.20.11.1993 under Annexure-1. The charge as per the complaint is with regard to remaining absent for the period from 11.30 AM to 1.25 PM on 20.11.1993.

4.8. It is contended that since no formal proceeding was initiated with framing of charges, basing on the notice issued under Annexure-1, with regard to absence of the Petitioner for the aforesaid period on 20.11.1993, no punishment or dismissal could have been imposed after remand of the matter by this Court in OJC No.13923 of 1999.

4.9. It is also contended that in the enquiry so conducted, since the Enquiry Officer proposed the punishment of stoppage of one increment with cumulative effect, in view of the provisions contained under Regulation-11(11) of the Regulation, no such order of dismissal could have been proposed by Opposite Party No.3 while issuing the notice under



Annexure-6, without assigning any reason, for differing with the view of the Enquiry Officer. Since provision contained under Regulation-11(11) of the Regulation was not followed, the punishment so proposed in Annexure-6 is not only vitiated, but also the punishment imposed vide order dtd.25.04.2012 under Annexure-10, confirmed vide order dtd.23.11.2022 under Annexure-12.

5. Making all the submissions, learned counsel appearing for the Petitioner contended that since provisions contained under Rule-11(11) of the Regulation was never followed and no formal proceeding was ever initiated against the Petitioner save and except the notice dtd.20.11.1993, so enclosed to Annexure-1, the order of dismissal passed against the Petitioner after remand of the matter vide order dtd.25.04.2012 under Annexure-10 confirmed vide order 23.11.2022 under Annexure-12 are not sustainable in the eye of law and requires interference of this Court.

5.1. It is also contended that during pendency of the Writ Petition, Petitioner has already attained the age of superannuation on 31.05.2023.

6. Mr. A.C. Swain, learned counsel appearing for the Jagannath Temple Administration, on the other hand while supporting the impugned order, contended that



basing on the notice issued under Annexure-1, Petitioner was proceeded with, with appointment of the enquiry officer vide order dtd.13.04.1994 under Annexure-2. Basing on the report submitted by the Enquiry Officer, Petitioner vide order dtd.03.06.1994 under Annexure-3 was dismissed from his services. Order of dismissal was also confirmed by the appellate authority vide order dtd.09.11.1998 under Annexure-5.

6.1. Even though both the orders under Annexures-3 & 5 were quashed by this Court in its order dtd.08.11.2009 in OJC No.13923 of 1999, but after such remand of the matter, Petitioner was again issued with the show cause proposing the punishment of dismissal vide notice dtd.18.06.2010 under Annexure-6 of Opposite Party No.3.

6.2. It is contended that while issuing the notice dtd.18.06.2010, by proposing the punishment of dismissal, the disciplinary authority –Opposite Party No.3, taking into account the gravity and seriousness of the allegation, did not agree with the finding of the Enquiry Officer and accordingly issued the show-cause under Annexure-6. Since Opposite Party No.3 taking into account the gravity and seriousness of the allegation did not agree with the view of the Enquiry Officer, it has to be held that sufficient reason has been



assigned in terms of the provisions contained under Regulation-11(11) of the Regulation.

6.3. It is further contended that, after being issued with the notice proposing the punishment of dismissal on 18.06.2010 vide Annexure-6 and on due consideration of the reply made by the Petitioner on 09.07.2010 under Annexure-7, the disciplinary authority imposed the punishment of dismissal once again vide order dtd.25.04.2012 under Annexure-10. Order passed by the disciplinary authority-Opposite Party No.3, has been confirmed in Appeal by Opposite Party No.2 vide order dtd.30.11.2022 under Annexure-12.

6.4. It is also contended that since Petitioner in the meantime has attained the age of superannuation, even if the order of dismissal is set-aside, Petitioner cannot get the benefit of reinstatement.

6.5. It is further contended that since while proposing the punishment of dismissal vide Annexure-6, in terms of the provisions contained under Regulation-11(11) of the Regulation, the disciplinary authority differed with the view of the Enquiry Officer, it has to be held that it is in compliance of the aforesaid regulation and no illegality or irregularity can be found with the impugned order passed under Annexure-10, confirmed vide order under Annexure-12.



6.6. It is accordingly contended no interference is called for with the impugned orders.

7. To the submissions made by the learned counsel appearing for the Temple Administration, learned counsel appearing for the Petitioner made further submission, contending inter alia that taking into account the allegation reflected in letter dtd.20.11.1993, enclosed to notice dtd.19.03.1994 under Annexure-1, punishment of removal is shockingly disproportionate to the alleged charge and no such punishment of removal could have been imposed.

8. Having heard learned counsel appearing for the Parties and considering the submissions made, this Court finds that Petitioner while continuing under the Temple Administration w.e.f. the year 1978, he was issued with the notice on 19.03.1994 under Annexure-1 with the allegation that he remained absent from duty during the period from 11.30 A.M. to 1.25 PM on 20.11.1993. Thereafter vide order dtd.13.04.1994 under Annexure-2, an Enquiry Officer was appointed to cause the enquiry with regard to the aforesaid charge.

8.1. After receipt of the Enquiry Report, Petitioner straight away when was dismissed from his service vide order dtd. 03.06.1994 under Annexure-3 and it was also confirmed by the appellate authority vide order



dtd.09.11.1998 under Annexure-5, Petitioner challenging both the orders approached this Court by filing OJC No.13923 of 1999. This Court vide order dtd.18.11.2009 while quashing both the orders remitted the matter to Opposite Party No.3 with a direction to proceed in accordance with law.

8.2. As found from the record after such remand of the matter, Petitioner was issued with the 2nd show cause on 18.06.2010 under Annexure-6 of Opposite Party No.3, proposing the punishment of dismissal. This Court after going through the notice dtd.18.06.2010 under Annexure-6, finds that while differing with the view given by the Enquiry Officer, no reason has been assigned by the disciplinary authority, in terms of the provisions contained under Regulation-11(11) of the Regulation.

8.3. This Court is unable to accept the contention raised by the learned counsel appearing for the Temple Administration that the disciplinary authority since did not agree with the view of the Enquiry Officer, taking into account the gravity and seriousness of the allegation, it amounts to compliance of Regulation-11(11). Since admittedly the provisions contained under Regulation-11(11) of the Regulation has not been followed and in the counter affidavit nothing has been indicated that Petitioner was issued with the notice



under Annexure-6, proposing the punishment along with the enquiry report and since admittedly no proceeding in accordance with law with definite charges was ever initiated against the Petitioner save and except the notice dtd.19.03.1994 under Anneuxre-1, containing the complaint dtd.20.11.1993, it is the view of this Court that no such order of dismissal could have been passed, removing the Petitioner from his services vide order dtd.25.04.2012 under Annexure-10, confirmed by the appellate authority vide order dtd. 30.04.2022 under Annexure-12. It is also the view of this Court that taking into account the nature of allegation reflected in letter dtd.20.11.1993, punishment of removal is shockingly disproportionate to the alleged allegation and no such punishment could have been imposed on the Petitioner.

8.4. In view of the aforesaid analysis, this Court is inclined to quash the order dtd. 25.04.2012 and 30.04.2022 under Annexures-10 & 12, and quash the same accordingly. However, since it is not disputed that Petitioner has retired from his services in the meantime by attaining the age of superannuation, and no such order of reinstatement can be passed, this Court observes that Petitioner be treated to have continued in service till he attained the age of superannuation on notional basis. Petitioner however



be held entitled to get all the retiral benefits as due and admissible from the date of his superannuation.

8.5. This Court directs Opposite Party No.3 to release the retiral benefits as due and admissible in favour of the Petitioner within a period of three (3) months from the date of receipt of this order.

9. Accordingly, the Writ Petition stands disposed of.

(Biraja Prasanna Satapathy)
Judge

Subrat