



IN THE HIGH COURT OF ORISSA AT CUTTACK
W.P.(C) No.31912 of 2022

Rabindranath Baral

.....

Petitioner

Mr. M. Pati, Adv.

-versus-

State of Odisha & Ors.

.....

Opposite Parties

Mr. A. Tripathy, AGA

Mr. D.K. Mohanty, Adv.

CORAM:

THE HON'BLE MR. JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

21.07.2026

Order No.12

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the Parties.
3. The present Writ Petition has been filed inter alia with the following prayer:-

“It is, therefore, prayed that this Hon'ble Court may graciously be pleased to quash the order of punishment passed by the of disciplinary authority dated 31.12.2002, 27.08.2021 & order of Appellate authority dated 21.10.2022 under Annexure-7,10&12 and direct the Opp. Parties to reinstate the petitioner with all service and financial benefits.

And/or pass such other order/orders as this Hon'ble Court may deems fit and proper for the ends of justice;

And for this act of kindness the petitioner as in duty bound shall ever pray.”



4. It is contended that while the Petitioner while continuing in service as a NMR-Mate in the establishment of the Opp. Party-Federation, basing on the order of engagement issued on 23.12.1989 under Annexure-1, he made a leave application on 10.11.2001 under Annexure-2 seeking leave from 10.11.2001 to 14.11.2001. Subsequently, Petitioner was placed under suspension vide order dated 14.01.2002 under Annexure-3 and the proceeding was initiated against him on 18.02.2002 under Annexure-4 with the following allegation:-

“You, Shri Rabindra Rath Baral, Mate (NMR) are posted at Salipur, godown for watch and ward duty vide office order No.6525 Estt. Dated 18.01.2001 and you joined accordingly on 27.01.2001 and continuing as such.

You were expected to be sincere, punctual and regular in your duty but you were found insincere, irregular and not vigilant in your duties, and committed the following omissions and commissions which are detrimental to the interest of the Federation.

It is reported by the Godown Manager, Salipur Buffer and Area Manager, OSCMF Ltd., Cuttack Cuttack that your were absent from your duties on 11.11.2001 without any leave application or prior permission from the Authorities taking the advantage of your absence on 11.11.2001 night, some miscreants had broken the locks of the office room, office Almirah and inside lockers with the intension of stealing away the office cash and other assets of the Federation. All these happened due to your unauthorised absence from duty.

Hence, the following charges are framed against you.



1. *unauthorised absence from duty.*
2. *Negligence in duty.*
3. *Disobedience of order and*
4. *Misconduct.*

You are, therefore, called upon to submit your written explanation to the above charges within 15 days of receipt of this proceeding, failing which the matter will be disposed of its own merit. You may indicate if you would like to be heard in person."

5. Learned counsel for the Petitioner contended that since Petitioner during the relevant time was continuing as a NMR, as per the service regulation governing the service condition of the Federation Employees, no such proceeding could have been initiated against him.

5.1. It is also contended that the charges in the proceeding though is with regard to unauthorised absence of the Petitioner for four (4) days, but in the said proceeding Petitioner without proper appreciation of his stand all through was held guilty by the Enquiry Officer under Annexure-6 and was initially disengaged vide order dated 31.12.2002 under Annexure-7 of Opp. Party No.3. Appeal filed by the Petitioner was also rejected by the Opp. Party No.2.

5.2. It is contended that challenging such order of punishment, confirmed in Appeal, Petitioner approached this Court by filing W.P.(C) No.10634 of 2008. It is contended that this Court vide order dated 04.01.2021, relegated the matter to the stage of issuance of second show-cause and accordingly second show cause was issued to the Petitioner on 27.07.2021 under Annexure-8.



5.3. Even though Petitioner submitted the reply to the second show cause under Annexure-9, but once again Petitioner was dismissed from his services vide order dated 27.08.2021 under Annexure-10. Appeal preferred by the Petitioner against the order of punishment, was also rejected vide the order dated 21.10.2022 under Annexure-12.

5.4. Learned counsel for the Petitioner contended that since Petitioner was continuing as a NMR at the relevant point of time, no such proceeding could have been initiated against him as per the service regulation of the Federation. Not only that taking into account the charge framed against the Petitioner under Annexure-4, punishment of dismissal from service is shockingly disproportionate to the alleged charges.

5.5. It is contended that since the charge is only with regard to remaining unauthorised absence for about 4 days, on the face such a charge, order of dismissal could not have been passed against the Petitioner initially vide order date 31.12.2002 under Annexure-7, and subsequently after remand of the matter, vide order dated 27.08.2021 under Annexure-10. It is contended that taking into the nature of the charge, so framed, no such order of punishment of dismissal could have been passed against the Petitioner, which is shockingly disproportionate.

5.6. It is accordingly contended that with quashing of the impugned order so passed under Annexure-10 & 12, Opp. Party-Federation be directed to re-engage the Petitioner and Petitioner be suitably compensated for such illegal action on the part of the federation in



dismissing him from service for remaining absent for around four (4) days, on the face of the leave application submitted under Annexure-2.

6. Mr. D.K. Mohanty, learned counsel for the Federation on the other hand while supporting the impugned order made his submission, so taken in the counter affidavit so filed. It is contended that since Petitioner remained in unauthorised absence for the period 10.11.2001 to 14.11.2001, the proceeding in question was initiated against him vide disciplinary proceeding No. 8643 dated 18.02.2002 under Annexure-5. In the said proceeding Petitioner when was initially imposed with the punishment of dismissal vide order dated 31.12.2002 under Annexure-7 and the same was upheld in Appeal, Petitioner challenged both the orders before this Court by filing W.P.(C) No.10634 of 2008.

6.1. This Court while quashing both the orders relegated the matter to the stage of second show cause and in terms of the said order passed by this Court on 04.01.2021, 2nd show cause was issued to the Petitioner on 27.07.2021 under Annexure-8. After due consideration of the reply so made by the Petitioner under Annexure-9, Petitioner was imposed with the punishment of dismissal vide order dated 27.08.2021 under Annexure-10. Such order of dismissal was also upheld by the Appellate Authority while rejecting the Petitioner's appeal vide order dated 21.10.2022 under Annexure-12.

6.2. It is accordingly contended that there being no allegation that there is violation of any statutory rule or regulation with regard to conduct of the proceeding and violation of the principle of natural



justice, no illegality or irregularity can be found with the impugned order of punishment.

6.3. It is also contended that leave application available under Annexure-2 dated 10.11.2001, was received by the Branch Manager, Salipur Godown after about 8 to 10 days and accordingly no arrangement could be made to place someone in place of the Petitioner, who was doing Watch and Ward duty in Salipur Buffer Godown. Since the Petitioner by sending the leave application through UCP under Annexure-2, continued on leave w.e.f. 10.11.2001 to 14.11.2001 and no alternate arrangement was made, there was a burglary attempt in the office room attached to the Godown on 12.01.2001.

6.4. It is contended that since the Petitioner without any intimation remained on leave w.e.f. 10.11.2001 to 14.11.2001 and during the said period a burglary attempt was made, which was reported by the Godown Manager, Petitioner was placed under suspension vide order under Annexure-3 and proceeding was initiated under Annexure-4.

It is accordingly contended that since due to the laches on the part of the Petitioner and the burglary took place on 12.11.2001, resulting breaking of the office room, office locker, Almirah with the theft of cash, Petitioner has been rightly imposed with the punishment, which requires no interference.

7. To the submission made by the learned counsel appearing for the Opp. Party NO.4-Federation, learned counsel appearing for the Petitioner made further submission basing on the rejoinder affidavit



so filed. It is contended that even though a stand has been taken that during the absence of the Petitioner a burglary took place on 12.11.2001, but no FIR was lodged at any point of time alleging such incident by the Godown Manager. It is accordingly contended that allegation of burglary is an after thought and nothing was indicated in the charge memo issued on 18.02.2002.

8. Having heard learned counsel for the Parties and considering the submission made, it is found that the proceeding in question was initiated against the Petitioner vide memorandum dated 18.02.2002 under Annexure-4 and with the charge that, he remained unauthorised absent for the period 11.11.2001 to 14.11.2001 and during such unauthorised absence, attempt was made to stole the property from the Federation godown situated at Salipur.

8.1. It is found that in the said proceeding the enquiry officer after conducting the enquiry, submitted the report under Annexure-6 with the following findings, which reads as follows:-

“(1) Sri R.N. Baral, delinquent was posted for watch and ward duty at Salepur depot. He should not remain absent without informing the Godown Manager.

If he had informed the Godown Manager the peon would have been engaged for watch and ward duty.

(2) As his duty was to watch the godown he should stay near the godown within head-quarter. But he was staying at his village away from headquarter.

So he is found guilty of the following charges:-

(1) Unauthorised absence from duty.



(2) Negligence in duty.

(3) The following punishments are recommended for consideration of the Authority.

1) The period of absence may be treated as loss of pay.

2) The period of suspension may be treated as such.

3) He may be reinstated and posted in any depot other than Salepur depot.”

8.2. However, on the face of such finding of the Enquiry Officer, Petitioner when was dismissed from his service vide order dated 31.12.2002 under Annexure-7 and the same was also upheld in appeal, Petitioner challenging both the orders approached this Court by filing W.P.(C) No.10634 of 2008. This Court vide order dated 04.01.2021 under Annexure-E to the counter, while quashing both the orders, relegated the matter to the stage of second show cause. In terms of the said order a fresh show cause issued to the Petitioner on 27.07.2021 under Annexure-8, by proposing the punishment of dismissal.

8.3. Even though Petitioner filed his reply to the same under Annexure-9, but Petitioner was dismissed from his services vide order dated 27.08.2021 under Annexure-10. Appeal filed by the Petitioner was also rejected vide order dated 21.10.2022 under Annexure-12.

8.4. This Court taking into account the nature of the charge framed in the proceeding and the report of the enquiry officer available under Annexure-6, is of the view that Petitioner on the face of such charge



Petitioner could not have been imposed with the punishment of dismissal and the same is shockingly disproportionate to the alleged misconduct.

8.5. Not only that the stand of the Opp. Party-Federation that in the absence of the Petitioner, a burglary took place on 12.11.2002 is also not acceptable as no material has been placed by the Opp. Party-Federation in that regard in their counter or even in the reply to the rejoinder.

8.6. In view of the aforesaid analysis, this Court while quashing order dated 27.08.2021 & 21.10.2022 under Annexure-10 & 12, direct Opp. Party No.3 to re-engage the Petitioner with passing of an appropriate order within a period of four (4) weeks from the date of receipt of this order.

8.7. However, taking into account the fact, that because of such order of dismissal, which was never warranted, Petitioner remained out of employment w.e.f. 31.12.2002 to till date, this Court imposes a cost of Rs.5,00,000/- (Rupees five lakhs) only on the Opp. Party-Federation towards compensation. Opp. Party No.3 is directed to release the compensation so assessed in favour of the Petitioner within the aforesaid period of four (4) weeks.

9. The Writ Petition accordingly stands disposed of.

Signature Not Verified

Digitally Signed
Signed by: JYOTIPRAVA BHOL
Reason: Authentication
Location: HIGH COURT OF ORISSA
Date: 04-Aug-2026 14:27:04
Jyoti

(BIRAJA PRASANNA SATAPATHY)
Judge