
(2010) 10 OHC CK 0013

In the Orissa High Court

Case No : Writ Petition (C) No. 6108 of 2009

Pradeep Kumar Mohapatra

APPELLANT

Vs

Director General, CRPF and Others

RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Citation : (2011) 111 CLT 575 : (2011) 1 OLR 882 Supp

Hon'ble Judges : S.K. Mishra, J

Bench : Single Bench

Judgement

S.K. Mishra, J.—Petitioner, in this case, seeks a direction to the Opp. Parties to release his back wages @ 25% from the date of dismissal to the date of judgment, in which a Division Bench of this Court has directed for reconsideration of the punishment inflicted to him and full back wages from the date of the judgment to the date of re-instatement.

2. Petitioner was appointed as a constable in CRPF. He has been promoted as LINK and posted to 60 Battalion, CRPF, Nagaon, Assam. While he was working as such, it was alleged that by fabricating two bills on white paper bearing Nos. 46 and 43 amounting to Rs. 4,500 each, he misappropriated money by placing false bills. A departmental proceeding was initiated, wherein he found guilty. He preferred an appeal, which was rejected. Thereafter, he preferred a writ application before this Court bearing OJC No. 4288 of 2000. The Opp. Parties appeared, and filed their written counter. The Division Bench of this Court was pleased to dispose of the said writ application on 11.07.2007. It is appropriate to quote operative portion of the order of the said writ application.

xxxx...Accordingly, we set aside the order of dismissal of thePetitioner from service vide Annexure-6 as well as the order of the Appellate authority under Annexure-8 and leave it open to the authority to inflict a lesser punishment as provided in CRPF Rules, 1955. Learned Counsel for the Petitioner undertakes that in case he is reinstated in service, he shall only be entitled to 250/0 of his back wages and not more than that.

Accordingly the Writ Petition is disposed of.

Notwithstanding the order of this Court the Opp. Parties did not carry out the same. Therefore, the Petitioner filed a Misc. Case bearing M.C. No. 749 of 2007 praying for fixing a date for compliance of the above order. In the said Misc. Case, the Division Bench of this Court, on 12.12.2007, directed the Opp. Parties to comply the Order Dated 11.07.2007 within one month from the date of the order. In spite of such Order Dated 12.12.2007, the Opp. Parties did not take any steps for compliance. So, the Petitioner filed a Contempt Case bearing No. 73 of 2008 before this Court. Notices were issued to the Opp, Parties. After receiving the contempt notice, the contemnor issued a letter dated 10.04.2008 to the Petitioner instructing him to report the office of the D.I.G.P, CRPF, Guwahati for further reinstatement in service.

3. Not withstanding the order passed by this Court, it is contended by Learned Counsel for the Petitioner that he has been given back wages @ 25% from the date of dismissal to the date of reinstatement. In this regard, he made representation before different authorities and also had filed a writ application, wherein liberty was granted to him to file an appeal before the cortiljeteiri authority. Since the authority refused his prayer, he has come up this Writ Petition.

4. The Opp. Parties have filed counter affidavit to the Writ Petition. The main trust of the counter affidavit is that they have been complied the orders passed by this Court. It is contended that, as per the undertaking given by the Petitioner, he was allowed 25% to the back wages from the date of dismissal from service, which took effect from 27.09.1999 to the date of reinstatement on 28.04.2008. After reinstatement in service, he is to be entitled for all the benefits as per rules/instructions. It is further contended by the Opp. Parties, the order of this Court was challenged before the Hon"ble Supreme Court in a Special Leave Petition, which was dismissed on 11.07.2007 and therefore on receipt of such order, the Opp. Parties has complied the original orders passed by this Court.

5. The only question that requires adjudication in this case is the entitlement of the Petitioner in pursuance of the order passed by this Court in OJC No. 4288 of 2000 on 11.07.2007. It is not disputed, that this Court has ordered that the Petitioner shall be entitled to 25% of back wages. However, this Court did not fix any time limit for implementation of that order. On an application filed by the Petitioner in Misc. Case No. 749 of 2007, which was disposed of on 12.12.2007, this Court directed the Opp. Parties to implement the order within one month, i.e., by 11.01.2008.

The Petitioner has been reinstated on 28.04.2008. In the meantime, a contempt application was also filed before this Court. Since the Court has directed that the order be- implemented by 11.01.2008, it is the duty of the Opp. Parties to reinstate the Petitioner within the stipulated time. They having failed to do so, the Petitioner is entitled to full wages for the period from 11.01.2008 to

28.04.2008. The Petitioner, however, is entitled to receive only 25% of the back wages as per the original order, prior to 11.01.2008.

Accordingly, the Writ Petition is disposed of directing that the back wages of the Petitioner be calculated from the date of termination to 10.01.2008 @ 250/0 and from 11.01.2008 to 28.4.2008, i.e. date of reinstatement, full back wages. No costs. This order be complied with within two months of receiving copy of this judgment. v. Petitioner is directed to file requisites for communication of this", order within two weeks.