

Radhakrishna Dash and Others

Vs

Administrative Tribunal, Bhubaneswar, Orissa and Others

Civil Appeals Nos. 1097-99 of 1977

(Ranganath Misra, L.M. Sharma JJ)

21.01.1988

JUDGMENT

RANGANATH MISRA, J. -

1. These appeals are by special leave and are directed against a common judgment of the Orissa High Court in three writ petitions, one by each of the present appellants challenging discharge from State Government service of each of the appellants for misconduct.

2. Under the Orissa Food Grains Dealers' Licensing Order, 1964, there was restriction in respect of carrying on business as a dealer in specified food grains including wheat except under, and in accordance with, the terms and conditions of a licence issued by the appropriate authority. At the relevant time, with a view to stabilising the price of wheat and for ensuring adequate supply thereof, government used to procure and store wheat through appointed agents. Storage agents had been appointed at Berhampur in the district of Ganjam who were storing wheat not only on behalf of the Collector of Ganjam but also of other Collectors. Up to June 17, 1968, there was a uniform price for different qualities of wheat but on and from that date, the Central Government decided that white wheat and red wheat shall be differently priced. On June 15, 1968 the State Government of Orissa required the Collectors by telegram to verify the opening stock of wheat/atta available with the storage agents and retailers and figures for red and white varieties of wheat to be separately reported. The appellant Radhakrishna Dash (Civil Appeal No. 1097 of 1977) was then working as Assistant Civil Supplies Officer while each of the other two appellants connected with the remaining two appeals were Supervisors of Supplies. They were entrusted with the aforesaid work in regard to five storage agents. Reports were submitted by them to the effect that the figures mentioned in the registers of the storage agents were correct. The Collector directed reverification through a group of Magistrates when he heard that the performance of the appellants was not beyond suspicion. Upon reverification the Magistrates found discrepancies in respect of stocks in each godown and such discrepancies were either on account of excess or shortfall. On the basis of the result of reverification, disciplinary proceedings were initiated against all the three appellants and the enquiry was entrusted to the Administrative Tribunal. Before the Tribunal evidence - oral and documentary - was led. A number of witnesses examined were also cross-examined. On the basis of such evidence, the Tribunal came to the conclusion that though the charge of illegal gratification was not established, it was sufficiently proved that the appellants had acted negligently. The Tribunal, therefore, recommended to the State Government that the appellant-Assistant Civil Supplies Officer should be discharged from service and the appellants - Supervisors should be visited with minor punishments. The State Government did not accept the recommendation in regard to the two Supervisors and directed discharge of all the three appellants from employment. The challenge before the High Court failed and their writ petitions were dismissed by the common

judgment of the Orissa High Court which is under appeal.

3. The main contention raised before us was that there was no evidence to support the finding that the appellants' negligence had been established. Mr. G. L. Sanghi appeared for the appellant - Supervisors while Mr. S. N. Aggarwal appeared for the Assistant Civil Supplies Officer. The common plea in these appeals by their respective advocates was that there was no evidence to support the conclusion reached by the Administrative Tribunal that each of them was negligent in his performance. Certain discrepancies in the evidence were pointed out in course of arguments. An attempt was also made to impress upon us the fact that the reverification was not done in an appropriate way so as to establish beyond doubt that the earlier verification was erroneous. It may be that an original forum on the materials could have taken a different view, but we do not think, after the Administrative Tribunal and the High Court have looked into the material and come to their their own conclusions - the High Court having agreed with the Administrative Tribunal - it would be appropriate for this Court in appeal to reassess the evidence. It is not a case where there is total absence of evidence because the reverifying Magistrates and other officers who helped reverification have led evidence to establish that there was variation in the exact stock as found by the appellants and as found by the Magistrates. Since it is not a case of total want of evidence, we do not think it would be proper for us to vacate the finding about the guilt of the appellants.

4. It may be pointed out that each of the appellants would by now have superannuated if he continued in service. It may also be stated that one of the Supervisors has in the meantime died and his legal representatives have been brought on record.

5. The verifying party on the first occasion consisted of an Assistant Civil Supplied Officer and two Supervisors. The Administrative Tribunal perhaps took into consideration the fact that the Assistant Civil Supplies Officer was a senior person in service and was higher in rank to the Supervisors and, therefore, being the leader of the group was more responsible than the two Supervisors in the matter of verification. Accordingly punishment of discharge had been recommended for the Assistant Civil Supplies Officer while lighter punishment had been recommended for the Supervisors. The Assistant Civil Supplies Officer had about three years to serve when on account of discharge from service he was kept out of employment. The Supervisors had longer periods of employment when they were discharged. Keeping these aspects in view, we suggested to counsel for the State to maintain a distinction in the treatment of the appellants and he fairly stated that the court could give appropriate directions in this behalf.

6. In these circumstances, the appeal of the Assistant Civil Supplies Officer being C.A. No. 1097 of 1977 is dismissed. In the other two appeals being C.A. Nos. 1098-99 of 1977 we direct that 40 per cent. of the exact remunerations as would have been admissible to each of the appellants as Supervisors had the order of discharge not been made, would be payable. As in one of the cases the officer has died, the payment has to be made to the legal representatives who, we understand, have been brought on record. The computation may be made within three months from now and within one month thereafter the payment may be made. We make it clear that apart from what we have directed, no further claim in regard to those two appeals including claim for pension shall be entertained. Parties are directed to bear their own costs throughout.

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