

ORDER SHEET

Order No. & date	Appeal Petition dated 31.10.2022 of Sri Prakash Dhali, Ex-Junior Clerk re-designated as Junior Assistant, Block Office, Chandahandi of Nabarangpur district in pursuant to the order dated 18.10.2022 of Hon'ble High Court of Orissa, Cuttack passed in W.P(C) No.26682/2022	Note on compliance of orders
1	2	3
09.08.23	<p>This appeal petition filed by Sri Prakash Dhali has been taken up pursuant to the order dated 18.10.2022 of Hon'ble High Court of Orissa, Cuttack passed in W.P.(C) No.26682/2022. The said writ petition was disposed of with the following observations.</p> <p><i>“Taking into account the submission made, the Petitioner is permitted to make fresh representation before Opp. Party No.3 in that regard within a period of seven days from today.</i></p> <p><i>“It is observed that if such representation is filed by the Petitioner ventilating his grievances, the same shall be considered by Opp. Party No.3 in accordance with law within a period of two months thereafter by affording an opportunity of hearing to the petitioner.”</i></p> <p>As per the order of Hon'ble High Court the petitioner produced the certified copy of the order of Hon'ble High Court of Orissa on 31.10.2022 alongwith the fresh appeal petition against the removal order of Collector, Nabarangpur passed vide Order No.1610 dated 30.09.2022. It is seen that the petitioner has never filed any appeal petition prior to this.</p> <p>The petitioner has filed this appeal petition under Rule-23 of the OCS (CC&amp;A) Rules 1962 against the order No.1610 dated 30.09.2022 of Collector, Nabarangpur wherein he had been removed</p>	

from contractual services. The petitioner prayed in the appeal petition that the dismissal order dtd.30.09.2022 of Collector, Nabarangpur may be set aside and he may be reinstated as Jr. Assistant in view of Repeal Notification of G.A. Department vide Notification No.29076 dtd.16.10.2022.

Though RDC is not the appellate authority in the case of Group "C" employees under SSEPD Department under OCS (CCA) Rules, 1962, the appeal petition is admitted by the undersigned in pursuance of order of Hon'ble High Court in the aforementioned WP(C) No.26682/2022.

After receipt of the appeal petition the connected files/ case record and parawise comments from the Collector, Nabarangpur was called for vide this office Letter No.1952 dated 23.11.2022 and reminder No.2049 dtd.12.12.2022. The Collector, Nabarangpur has furnished his parawise comments on the appeal petition vide his letter No.2200 dated.19.12.2022 without connected files/ case records. The photocopies of files/records had been furnished by the Collector, Nabarangpur vide his letter No.140 dated 31.01.2023 after being reminded by this office L.No.49 dtd.09.01.2023. But the original files and records as called for had been submitted by the Collector vide L.No.223 dated 12.02.2023.

Perused the PWC and connected file submitted by the Collector, Nabarangpur. It is seen that the petitioner Sri Prakash Dhali was appointed as Junior Clerk on contractual basis under Social Security and Empowerment of Persons with Disabilities Department as per Rule "Odisha Group-C and Group-D Post (Contractual

appointment) Rules 2013” by the Collector, Nabarangpur vide District Office Order No.1129 dated 17.08.2019 and posted to Block Office, Chandahandi in Nabarangpur District. As such he joined on 21.08.2019; Sri Praksah Dhali was acting as in charge of Block Social Security Officer in pursuance of letter No.5397 dated 20.06.2019 of the Director, SSEPD Department, Odisha, and Bhubaneswar. During his incumbency as In-charge Block Social Security Officer in Block Office, Chandahandi, he had committed irregularities and misappropriated an amount of Rs.42,500/- (Rupees forty two thousand five hundred) towards payment of pension meant for the beneficiaries under MBPY Scheme in the month of September, 2022 by way of manipulating the account number of beneficiaries .It also revealed from report of Collector, Nabarangpur that an FIR has been lodged against the appellant in Chandahandi Police Station vide L.No.2467 dated 29.10.2022 by the BDO, Chandahandi for misappropriation of Rs.42,500/- towards payment of pension meant for 85 nos of beneficiaries under MBPY Scheme. It is also reported that on further enquiry it was found that, the appellant had misappropriated RS.7, 35,200/-(Rupees Seven Lakh Thirty Five Thousand Two Hundred) under Madhubabu Pension Yojana (MBPY) related to the pension meant for old, infirm, destitute, widow, disadvantaged and vulnerable people of the society.

The appellant was noticed to appear before the undersigned for a personal hearing on 15.2.2023 to put forth his version in the interest of natural justice vide this office Notice No.246 dtd.08.02.2023. The date of hearing was rescheduled due to Collectors’ Conference on 14.02.23 and 15.02.23 at Bhubaneswar and Konark. Further notice



was issued for the hearing on 27.02.2023 vide this Office Notice No.359 dated 21.02.2023. The petitioner was present and was heard at length.

The petitioner has submitted a representation with copies of documents to put forth his grievance during the course of hearing. He reiterated previous appeal petition. He had also added some new fact that, in similarly situated case, the P.D., DRDA, Nabarangpur issued show cause notice to Sri Sangram Pattnayak, PEO vide Notice No.4885 dated 14.09.2020 regarding misappropriation of Govt. money to the tune of Rs.51, 000/- .Accordingly the BDO, Dabugam directed Sri Sangram Pattnayak, PEO of Dabugam Block to deposit the amount before him within three days vide letter No.4080 dtd.07.10.2020 and Sri S.Pattanayak deposited the said amount.

Further, he submitted that, similarly 3 other Panchayat Executive Officers namely Khagapti Bhatra, Sri Bibhuti Samantaray and Asit Kumar Sarkar of Block Office, Dabugam were issued show cause notice regarding misappropriation of Govt. money of the beneficiaries/ persons during their tenure at different G.Ps of Dabugam Block by the PD, DRDA, Nabarangpur. Accordingly the BDO, Dabugam also directed them to deposit respective misappropriation amount within three days' time on receipt of the notice. They have deposited respective amount before the BDO, Dabugam. He submitted that the bonafide and unavoidable mistake would have been corrected without removing the petitioner from the Govt. service. The BDO, Chandahandi being DDO could have advised and corrected the circumstantial/unintentional/ bonafide mistake of the appellant being higher decision making authority in the

Block Administration. But the petitioner had not been given reasonable opportunity to rectify the above mistake.

It has also mentioned in his prayer that, to satisfy the undesirable desire of Sri A.Dhananjaya Rao, Block Social Security Officer, Collector Office Nabarangpur, he paid ₹ 5,000/- through phone pay on dt.20.05.22 vide transaction ID-T2205201707320474667050.

The petitioner prayed for giving opportunity to rectify the above mistake like other employees who were given chances to deposit the misappropriation amount.

As he has submitted the above new facts during the date of hearing by way of written submission, report from Collector, Nabarangpur was sought for on the following points vide L.No.121/Res. Dtd.23.05.2023 in case of the petitioner and in another similar case of Sri Atanu Dewri.

1. Whether the employees mentioned by the appellant are regular employee/ contractual.
2. Besides recovery of money from the employees, what action has been taken by you against them for such misappropriation of Govt. money and on the fact that the petitioner had paid Rs.5000/- to Sri A.Dhananjaya Rao, BSSO, Collector Office, Nabarangpur through Phone pay.

The deadline for such submission of report was set for 26.05.2023. Again, the Collector, Nabarangpur was reminded vide L.No.1090 dtd.21.06.2023 and finally vide L.No.149 dtd.20.07.2023

to submit the required report by 27.07.2023 to take further course of action at this level. The required report was finally received from Collector, Nabarangpur vide L.No.770 dtd.08.08.2023. It is reported that the employees (PEOs) are regular employees and not found involved in the similar case as submitted by the appellant during the course of hearing. One PEO named Bibhuti Samantaray has expired on 14.07.23.

So far as paying ₹ 5000/- to Sri A.Dhanajaya Rao, BSSO, Collectorate, Nabarangpur is concerned, it is reported by the Collector that there is no evidence of returning ₹ 5000/- back in phone pay by Sri Prakash Dhali. This transaction is reported to be purely personal and nothing to do with the instant case as the above transaction was made in the month of 21<sup>st</sup> May, 2022 which is much before, prior of detection of the misappropriation case by both the appellants.

On perusal of the removal order passed by the Collector Nabarangpur vide his Order No. 1610 dtd. 30.09.2022 it is evident that the misappropriation of the money detected in the month of September'2022 which is prior to the detection of the misappropriation case.

On perusal of order of the Collector, Nabarangpur in his order No.1610 dated 30.09.2022 that *"...it is apprehended that Sri Dhali apparently and likely to have misappropriated huge of Govt. money meant for the beneficiaries under MBPY scheme in the previous months also which will be detected after completion of detailed enquiry to be conducted by the DSSO, Nabarangpur.*

*"...such omissions and commissions and gross lapses and offence on the part of Sri Praksh Dhali, Jr. Assistant (SSEPD), Block Office, Chandahandi which attracts major penalty as prescribed under Rule 13 of OCS (CC&A) Rules 1962 read with Rule 18 of OCS(CC&A) Rules 1962, I as the Appointing Authority is satisfied that misappropriating pension money of the socially disadvantaged, differently-abled, old, infirm people of the society is not only a heinous crime but also inhumane act which cannot be tolerated and this tantamount to gross violation of Rule 18 of OCS(CC&A) Rules 1962. I am also satisfied that this is not reasonably practicable to follow the procedure prescribed for removal of a contractual employee. In exercise of powers conferred under 311(2) 2<sup>nd</sup> proviso(b) of the Constitution of India read with sub rule (ii) of Rule 18 of Odisha Civil Services (Classification, Control & Appeal) Rules 1962, I hereby order for removal of said Sri Prakash Dhali, Junior Assistant (SSEPD), Initial Appointee, Block Office, Chandahandi from Government Service (Contractual) with immediate effect without following the normal procedure of the OCS(CC&A) Rules 1962"*

The deficit in opportunity of being heard before removal from the service by the Appointing Authority, suffered by the Appellant has been adequately made up at this level, in that he has been heard in person and his additional submissions also taken into account in the process.

The appellant has filed written submission during the course of hearing wherein he has mentioned about similar cases where the employees had been given chances to deposit the amount. This being totally a new fact in this case which the appellant had never pledged

in the writ petition as well as in the appeal petition filed before the undersigned. To ascertain the veracity of his prayer a report from Collector, Nabarangpur was called for.

From the report of the Collector, it is revealed that the employees' names mentioned by the appellant in his prayer are not found involved in the similar case as that of the appellant's. The revelations of the appellant that he had paid ₹5,000/- "to satisfy the undesirable desire of Sri A.Dhananjaya Rao, Block Social Security Officer, Collector Office, Nabarangpur" is sought to be proved by production of a transaction (copy) on phone pay dt. 20.05.2022. This has been countered by the Collector, Nabarangpur with a different narrative, stating therein that it was a personal transaction totally dissociated from the present case, being a repayment of the sum previously lent to the appellant by Sri Rao. A study of this payment transcript presented by the appellant speaks of a payment of ₹ 5,000/- to Sri Rao but that in no way unravels the purpose behind the transaction. In other words, this transaction slip does not cement the claim that it was 'bribe money'.

Further, it is proved on record that the appellant had transferred the Pension Funds to the bank accounts of his relatives and to one Dharmendra Sahu, Ex-PA, Chandahandi instead of transferring the money to the accounts of the actual beneficiaries.

It is clearly mentioned in the removal order of Collector, Nabarangpur vide order No.1610, dated 30.09.2022 "...that Sri Dhali has misappropriated an amount of ₹42,500/- (Rupees Forty Two Thousand Five Hundred) towards payment of pension meant for the





beneficiaries under MBPY Scheme in the month of September, 2022 by way of manipulating the account numbers of beneficiaries in the soft copy. The manipulated Bank account numbers mostly belongs to relatives of Sri Dhali.”

To this specific charge, the appellant has neither submitted any explanation or posted rebuttal in his written appeal to this authority nor made any oral submission at the time of hearing on 27.02.23.

In the parawise comment on the appeal petition of Sri Dhali submitted by Collector, Nabarangpur vide letter No.2200, dated 19.12.2022, it is further revealed that :

Xxxxx

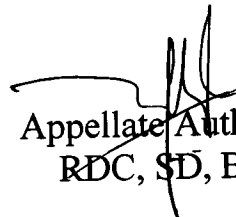
“A detailed enquiry & verification of the payment of MBPY beneficiaries was conducted thereafter by the DSSO, Nabarangpur. After enquiry, it was found that the Appellant has misappropriated an amount of ₹7,35,200/- (Rupees Seven Lakh Thirty Five Thousand Two Hundred) under Madhu Babu Pension Yojana which related to the pension amount meant for Old, infirm, destitute, widow, disadvantaged & vulnerable people of the society.”

Altogether a total amount of ₹ 7,35,200/- as mentioned supra has been detailed as having been diverted to the accounts of his relatives from the month of September, 2021 till September, 2022. The total number of beneficiaries who were denied their pension money under MBPY works out to 1470. The digital/electronic transaction records establish that the aforesaid amount has been credited into the following accounts :-

Sl. No	Name of the Account Holder	Account Number	Total Amount Deposited
1.	Dharmendra Sahu/Ex-P.A., Chandahandi	46350100004750/ BARBOCHANAB	₹7,35,200/-
2.	Jagannath Dhali	34071491720/(SBI)	
3.	Sumitra Gain	39088665614/ (SBI)	

Therefore, in exercise of the power conferred under Rule 29 of the OCS (CC&A) Rules, 1962 the appeal is disallowed. In considering the merit of the case, I find that the order of removal passed by the Collector, Nabarangpur vide order No.1610 dated 30.09.2022 is just and proper, given the gross misappropriation of Government money committed by the appellant in utter disregard of the needy beneficiaries of the Government's Pension funds, which is proved on record.

The appeal petition is disposed of accordingly.

  
Appellate Authority-cum-  
RDC, SD, Berhampur.