

ORDER SHEET

Order No. & date	Appeal petition dated 31.10.2022 of Sri Atanu Dewri, Ex-Junior Clerk re-designated as Junior Assistant, Block Office, Dabugam of Nabarangpur district in pursuance of the order dated 18.10.2022 of Hon'ble High Court, Orissa, Cuttack passed in WP(C) No.26680/2022	Note on compliance of orders
1	2	3
09.08.23	<p>This appeal petition filed by Sri Atanu Dewri has been taken up pursuant to the order dated 18.10.2022 of Hon'ble High Court of Orissa, Cuttack passed in WP(C) No.26680/2022 and the writ petition was disposed of with the following observations.</p> <ol style="list-style-type: none">1. "He further submits that through highlighting his grievances, the petitioner has filed a representation Annexure-7 to the writ petition but till date nothing has been done in the matter. In such background, he prays that a direction be issued to opposite party No.3 to take a decision on the above noted petition within a specific time period.2. "Considering the submission made and without expressing any opinion on the merits of the case, this court directs opposite party No.3 to take a direction on the above noted petition by giving an opportunity of hearing to the petitioner, in accordance with law, within a period of two months from the date of production of certified copy of this order and communicate the result of such exercise to the petitioner". <p>The petitioner produced the certified copy of the order of Hon'ble High Court of Orissa on 31.10.2022 alongwith his appeal petition against the removal order of Collector, Nabarangpur vide Order No.1613 dated 30.09.2022. In the aforesaid appeal petition, the appeal petitioner prayed that the Collector-cum-D.A. had</p>	



passed order for removal of the appeal petition without holding enquiry as per OCS(CC&A) Rules.

It appeared that the petitioner has never submitted any appeal to the opposite party No.3 i.e. RDC, SD-cum-Appellate Authority previously in this regard.

The petitioner had filed this appeal petition on 31.10.2022 under Rule-23 of the OCS(CC&A) Rules 1962 against the order No.1613 dated 30.09.2022 of Collector, Nabarangpur in pursuance of the order dated 18.10.2022 of Hon'ble High Court of Orissa passed in W.P.(C) No.26680/2022.

Though RDC is not the appellate authority in the case of the Group- 'C' employees under SSEPD Department under OCA (CC&A) Rules, 1962 the appeal is admitted by the undersigned in pursuance of order of Hon'ble High Court in the aforementioned W.P.(C) No.26680/2022.

After receipt of the appeal petition of the petitioner, the connected files/ case record and parawise comments were called for from the Collector, Nabarangpur vide this office Letter No.1959 dated 25.11.2022 and reminder No.2086 dtd.15.12.2022. The Collector, Nabarangpur has furnished his parawise comments on the appeal petition vide his letter No.2212 dated.22.12.2022 without connected file/ case records. Further on reminding vide this office letter No.24 dtd.7.01.2023 the files/ records has been furnished by the Collector, Nabarangpur vide his letter No.141 dated 31.01.2023.

As per files/ records/ PWC submitted the fact of the case is

delineated as below,

In pursuance of Advertisement No.IIE-40-C/2017/ 01125/ OSSSC dtd.28.07.2017 of OSSSC, Bhubaneswar and pursuant to letter No.IIE-43/2018-850(C)/OSSSC dtd.25.09.2018 of the Secretary, OSSSC, Bhubaneswar, the Appellant was appointed as Junior Clerk {re-designated as Junior Assistant (SSEPD)} on contractual basis under SSEPD Department and posted as such to Block Office Dabugam vide District Office Order No.1225 dated 08.11.2018.

Sri Dewri joined in the post of Junior Clerk in Block Office, Dabugam on 12.11.2018 by executing agreement as per terms and condition of Odisha Group-C & Group-D Post (Contractual Appointment Rules-2013) communicated vide Notification No.32010/gen dated 12.11.2013 of General Administration Department, Odisha. Further, he was kept in charge of Block Social Security Officer, Dabugam Block as per Letter No.5397 dated 20.06.2019 of the Director, SSEPD Department, Odisha.

During the tenure of Appellant as In-charge Block Social Security Officer (BSSO) Dabugam, he involved himself in huge misappropriation of Government money. In order to ascertain the misappropriation of Government money, the verification of disbursement list of pensioners for the month of September, 2022 was made with that of the soft copy sent to the Bank Authority through e-mail, by the District Social Security Officer, Nabarangpur. It was found that Sri Dewri misappropriated an amount of Rs.98,200/- (Rupees ninety-eight thousand two

hundred) towards payment of pension meant for the beneficiaries under Madhu Babu Pension Yojana (MBPY) in the month of September, 2022 by way of manipulating the account numbers of the beneficiaries in the soft copy. The manipulated Bank account numbers mostly belong to his own Bank account and that of his relatives'. The above misappropriation which was detected by the DSSO, Nabarangpur was just the tip of the iceberg.

A detailed enquiry & verification of the payment of MBPY beneficiaries was conducted thereafter by the DSSO, Nabarangpur. After inquiry, it was found that the Appellant has misappropriated an amount of Rs.4,99,800/- (Rupees four lakh ninety-nine thousand eight hundred) under Madhu Babu Pension Yojana which related to the pension amount meant for Old, infirm, destitute, widow, disadvantaged & vulnerable people of the society. An FIR has also been lodged against the appellant for such misappropriation.

It is also mentioned by the Collector in the PWC that for such heinous crime and inhuman act on the part of the appellant, his further continuation in Govt. service was against the public interest and highly undesirable in the interest of the vulnerable section of the society. Hence the removal of service of the appellant as per Rule-18 of OCS(CC&A) Rule is just and proper.

The Collector, Nabarangpur has mentioned the misappropriated amount as ₹ 93,000/- in the removal order, but the actual amount is ₹ 98,200/- as evident from the FIR lodged by BDO, Dabugam on further verification which is corroborated in the parawise comments submitted by the Collector.

The appellant was noticed to appear before the undersigned for a personal hearing on 15.02.2023 to put forth his version for the sake of natural justice vide this office Notice No.244 dated 08.02.2022. The date of hearing was rescheduled due to Collectors' Conference at Bhubaneswar and Konark on 14.02.23 and 15.02.23. Further, notice was issued again for personal hearing on 28.02.2023 vide Notice No.361 dated 21.02.2023. The advocate to the appellant present on 27.02.2023 during the course of hearing in another case and prayed for conducting the same on 27.02.2023. The petitioner was also present on that day. Hence the undersigned granted the prayer and heard the appellant.

The petitioner has submitted a representation with copies of documents to put forth his grievance and he had reiterated previous appeal petition and 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 of Rs.51,000/- to 21 nos beneficiaries/ person under IGNOAP during his tenure at Gursinga G.P. of Jharigam Block. 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.07.10.2022 and he deposited the said amount.

Further, he submitted that similarly 3 other PEOs namely Khagapati 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 with BDO, Dabugam. He submitted that the bonafide and unavoidable mistake should have been corrected without removing the appellant from the Govt. service. The BDO, Dabugam being DDO could have advised and corrected the circumstantial/unintentional/ bonafide mistake of the appellant being higher decision-making authority in the Block Administration. In this case he 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. 21.05.22 vide transaction ID-T2205210935551884305170.

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 Prakash Dhali.

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.Dhanjaya 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 he had given ₹ 5,000/- cash as hand loan to Sri Atanu Dewri on humanitarian relationship, which he returned back to Sri Rao in phone pay. 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 21st May, 2022 which is much before the detection of the misappropriation case by the appellant.

As per the removal order passed by the Collector Nabarangpur vide his Order No. 1613 dtd. 30.09.2022, the misappropriation of the money detected in the month of September'2022.

On perusal of the order of the Collector-cum- Disciplinary

Authority, Nabarangpur in his order dated 30.09.2022 that *“it is apprehended that Sri Atanu Dewri 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 Atanu Dewri, Jr. Assistant (SSEPD), Block Office, Dabugam 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) 2nd proviso (b) of the constitution of India read with sub rule (ii) of Rule 18 of OCS(CC&A) Rules 1962, I hereby order for removal of said Sri Atanu Dewri, Junior Assistant (SSEPD) initial appointee, Block Office, Dabugam 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. 21.05.2022. 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 self and his relatives 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.1613, dated 30.09.2022 "...that Sri Dewri has misappropriated an amount of ₹93,000/- (Rupees Ninety Three Thousand) 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 belong to Sri Dewri and his relatives."

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 Dewri submitted by Collector, Nabarangpur vide letter No.2212, dated 22.12.2022, it is further revealed that :

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"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 ₹4,99,800/- (Rupees Four Lakh Ninety Nine Thousand Eight Hundred) under Madhu Babu Pension Yojana which related to the pension amount meant for Old, infirm, destitute, widow, disadvantaged & vulnerable people of the

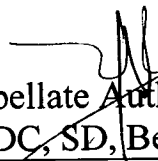
society.”

Altogether a total amount of ₹ 4,99,800/- as mentioned supra has been detailed as having been diverted to the appellant's own account and those of his relatives from the month of March, 2022 till September, 2022. The total number of beneficiaries who were denied their pension money under MBPY works out to 896. 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.	Anatu Dewri	130110100108390 (UBI) & 22720100014354/ BARBOUMARKO	₹4,99,800/-
2.	Dhiraj Biswas	32044017483 (SBI)	
3.	Akash Roy	33562717671 (SBI)	
4.	Manoj Biswas	38040139976 (SBI)	
5.	Baby Sarkar	130110100114726 (UBI)	

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.1613 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.