

STATE OF ORISSA AND ORS.

v.

BAIDHAR SAHU

MAY 2, 2000

[V.N. KHARE AND S.N. PHUKAN, JJ.]

Service Law :

Orissa Civil Services (Classification, Control and Appeal) Rules, 1962 :

Rule 12—Power of Collector to suspend an employee in contemplation of disciplinary proceedings—Stipendiary Engineer appointed by State Government and working in connection with affairs of community development—Disciplinary proceedings against in contemplation—Order passed by District Collector suspending him—Orissa Administrative Tribunal holding that Collector had no such power—Held, Collector was empowered by Governor to suspend a Government servant working in connection with affairs of community development—Said power continued to be exercisable by Collector even after delegation of power on him to impose minor punishment.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3015 of 1997.

From the Judgment and Order dated 17.4.96 of the Orissa Administrative Tribunal, Bhubaneshwar in O.A. No. 196 of 1996.

Jana Kalyan Das for the Appellants.

The following Order of the Court was delivered :

The short question that arises for consideration in this case is whether the Collector of a District has the power to suspend the Stipendiary Engineer appointed by the State Government and working in connection with the affairs of the community development.

The respondent is a Stipendiary Engineer and at the relevant time was posted at Das pantapur Block in the District of Koraput, Orissa. It appears that since disciplinary proceedings were in contemplation against the respondent

A and, therefore, the Collector of Koraput by an order dated 8th April, 1996
suspended the respondent. The respondent challenged the aforesaid order of
suspension before the Orissa Administrative Tribunal on the ground that the
Collector had no authority to suspend him in contemplation of the departmen-
tal inquiry against him. The tribunal, on filing of the original application,
B without issuing notice to the appellants, allowed the said application holding
that the Collector had no power to suspend the respondent. It is against the
said judgment the appellants are in appeal before us.

C Despite service of notice, the respondent has not put in appearance in
this case. We, therefore, proceed to decide the matter in his absence.

Rule 12 of the Orissa Civil Services (Classification, Control and
Appeal) Rules, 1962 provides that the appointing authority or any authority
empowered by the Governor may place a government servant under suspen-
sion where a disciplinary proceeding against such a government servant is
D in contemplation or where a case against such a government servant in respect
of any criminal offence is under investigation or trial. By an order dated
6.2.87, the Governor of Orissa in exercise of power under sub-rule (1) of Rule
12 of the Rules empowered the Collector of the district to suspend a
government servant working in connection with the affairs of the Community
E Development. Subsequently, the-governor has also empowered the Collector
of the district to inflict minor punishment on the government servants working
with the affairs of the community development.

The tribunal was of the view that since the Collector is empowered to
impose only minor punishments; the power of suspension could not be
F delegated to the Collector, as power of suspension is exercisable only in the
case of major punishment. This view, according to us, is not legally correct.
It was not disputed before the tribunal that, under Rule 12, the Governor is
empowered to delegate the power of suspension on the Collector of the
district. Merely because the Governor subsequently has empowered the
G Collector of the district to also inflict minor punishment, it does not mean
that by such delegation the Governor is denuded of his power to delegate
power of suspension on the Collector. Such a view of the tribunal is neither
borne out from reading of Rule 12 nor on the interpretation of the order dated
6th February, 1987. We are, therefore, of the view that once the Collector was
H empowered by the Governor to suspend a government servant working in

connection with the affairs of the community development, the said power continued to be exercisable by the Collector even after delegation of power on the Collector to impose minor punishment. A

On the aforesaid view of the matter, the order under challenge is set aside. The appeal is allowed. There shall be no order as to costs. B

R.P.

Appeal allowed.