

(2007) 01 JH CK 0017
In the Jharkhand High Court

Anandi Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-01-2007

Acts Referred:

Citation : (2007) 3 JCR 15

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner confines his prayer only to the assailing the quantum of punishment. According to the petitioner, he along with one Brahma Nand Singh was proceeded against on the charge of mis-behaviour of lady Sub-Inspector. Show-cause was filed by them, enquiry was held and in the enquiry, the petitioner as well as said Brahma Nand Singh were found guilty of the mis-behaviour.

The grievance of the petitioner is that while Brahma Nand Singh has been awarded punishment of only two black marks whereas the petitioner has been awarded punishment of dismissal.

2. Mr M. Khan, learned Counsel for the petitioner submitted that the petitioner has been subjected to discrimination and inequality and that he has been given severe punishment without any special reason being recorded by the disciplinary authority. It has been submitted that the petitioner assailed the order of the disciplinary authority before the D.I.G. Police, Singhbhum Kolhan, Chaibasa in appeal but the learned appellate authority has summarily dismissed the petitioner's appeal. Learned Counsel further submitted that though there are several illegalities in the proceeding, since the petitioner has been found guilty by the disciplinary authority and the same has also been confirmed by the appellate authority, he has preferred not to assail the departmental proceeding but the petitioner is aggrieved by the said discriminatory and arbitrary

punishment of dismissal awarded to him whereas the said Brahma Nand Singh against whom the same charges have been proved, has been awarded punishment of only two black marks.

3. Mr. M.K. Laik, learned senior S.C.I appearing on behalf of the respondents submitted that there is no denial that the petitioner has been awarded punishment of dismissal for the same proved charge whereas said Brahma Nand Singh has been" awarded punishment of only two black marks. The appellate authority should have considered that there should not be different treatment to the similarly situated delinquent and should have applied his mind on the said ground. Learned Counsel submitted that admittedly, there is no consideration of the said ground by the learned appellate authority. Learned Counsel further submitted that the said point can be reconsidered by the appellate authority himself and for this purpose, the petitioner may approach the said authority and pray review of the said order.

4. After hearing the learned Counsel for the parties and considering the said admitted position and also considering that this writ petition has been filed in the year 2004, instead of directing the petitioner to file a review, the matter itself is fit to be remitted to the appellate authority for fresh consideration and disposal of the appeal. Without going into the merit of the case and in view of the submissions made by the learned senior S.C. I, and considering the fact that the appellate authority has nor applied his mind on the, said ground and grievance of discrimination awarding different and severe punishment to the petitioner and the punishment to the said Brahma Nand Singh for the same proved charge, the order passed by the appellate authority is set aside. The matter remitted to the Deputy Inspector of Police, Singhbhum Kolhan Chaibasa for a fresh decision of the appeal, in accordance with law. It is expected that looking into the age of the case, the DIG shall take up the matter and dispose of the same within a period of three months from the date of receipt/production of a copy of this order.

5. This writ petition is allowed to the extent and with the aforesaid observation/directions.