
(2007) 08 JH CK 0040
In the Jharkhand High Court

Anil Kumar Mishra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Citation : (2007) 4 JCR 146

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ramesh Kumar Merathia, J.—In this writ petition, the petitioner has challenged the order dated 30.9.1997 passed by the Inspector General, Central Industrial Security Force, Patna (respondent No. 2) as contained in Annexure-6 rejecting the revision petition of the petitioner and upholding the order dated 3.6.1996 contained in Annexure-5 passed by the Deputy Inspector, Central Industrial Security Force, Bokaro Steel Plant, Bokaro Steel City (respondent No. 3) whereby the said appellate authority affirmed the order dated 19.2.1996 as contained in Annexure-4 passed by the Commandant/ADM, Central Industrial Security Force, Bokaro Steel Plant, Bokaro Steel City (respondent No. 4) dismissing the petitioner from service.

2. Mr. R.S. Mazumdar, appearing for the petitioner, submitted that the said orders have been passed without taking into consideration the evidence on the record. He further submitted that the complainant himself did not identify the petitioner and, therefore, the order of dismissal should not have been passed. He further submitted that the defence witnesses were not considered in right perspective. He further submitted that the seizure list, duty chart and the forwarding letter with which the petitioner was sent for verification of the Gate Pass were not provided to him.

3. Mr. Mokhtar Khan, learned Assistant Solicitor General, appearing for the respondents, on the other hand submitted that even if the complainant did not

identify the petitioner, there were other evidences on record on the basis of which the impugned orders were rightly passed. He further submitted that this Court under writ jurisdiction may not interfere with the -concurrent findings of fact recorded by the original, appellate and the revisional authorities and may not interfere with the punishment awarded.

4. The case of the Management in short was as follows. On 13.9.1995 at about 10.30 hours, a contract labour, Sunil Kumar Rai of M/s. Puja Enterprises (PW 4) arrived at CEZ Gate of the plant on a motor cycle. Inspector/Exe. D. Dung Dung (PW 2) while checking the gate pass of the said contract labour noticed that he was having two gate passes, one for self and another in the name of his father for the vehicle. PW 2 gave both the gate passes to the petitioner who was on duty at the said gate along with the forwarding letter for verification from the Pass Section. The petitioner proceeded towards the Pass Section. On the way he met PW 4 and demanded/received Rs. 150/- as illegal gratification for returning the seized gate passes. Thereafter the petitioner arrived at the CEZ gate. In the meanwhile, PW 4 went to Pass Section and lodged a complaint before Jagbir Singh, Deputy Commandant (PW 1) and asked whether he can use his father's gate pass for vehicle or not. He replied that he cannot use his father's gate pass for the vehicle and thereafter PW 4 informed PW 1 about the money he had given to the petitioner for getting back the gate passes. PW 1 took PW 4 to CEZ Gate at about 11 hours where PW 4 clearly recognised the petitioner as the one who had accepted Rs. 150/- as illegal gratification. PW 1 called the petitioner in the office of the Coy. Commandant and enquired in the presence of PWs 2 and 3. The petitioner accepted his guilt and pleaded for mercy. PW 1 asked PW 3 to search the petitioner on which the petitioner himself took out from his pocket a sum of Rs. 160/-. Accordingly the money was seized and a seizure list was prepared which was signed by all the witnesses present there.

5. A departmental proceeding was started against the petitioner on the following charge:

ARTICLE OF CHARGE-I

No. 862300135 Constable Anil Kumar Mishra of "B" Coy., CISF Unit, BSL., Bokaro is charged with grave misconduct and dereliction of duty in that while he was detailed for general shift duty on 13.9.1995, he collected Rs. 150/-(Rupees One hundred fifty only) from Shri Sunil Kumar Rai, Contractor Labour of M/s. Puja Enterprises towards illegal gratification for his wrongful gains while escorting Shri Sunil Kr. Rai from CEZ Gate to Pass Section for verification of the gate passes seized by Insp/Exe D. Dung Dung. Later, on the complaint of Shri Sunil Kumar Rai, a sum of Rs. 160/- was recovered from constable Anil Kumar Mishra by Shri Jagbir Singh, Dy. Commandant in presence of Insp/Exe D. Dung Dung and SI/Exe D. Dung Dung and SI/Exe R.R. Berad.

6. Petitioner's case in his reply, in short was that he has been falsely implicated in the case, he was not on duty at the CEZ Gate on the said day; he went to CEZ

Gate on that day at about 11 hours to report to PW 2 about the defect in exhaust fan, company line and about the leakage of bath room pipe but he was not deputed to get the gate pass verified as alleged; on that day, he brought Rs. 160/- to purchase bus tickets to send home his brother and mother but the money was seized from him; there was no officer available with the Company line to whom he could inform about the possession of Rs. 160/- and moreover due to busy schedule of work, it slipped from his mind.

7. The said reply was not found satisfactory. Enquiry started. Petitioner participated.

8. Four witnesses were cross-examined out of whom PWs 1, 2 and 3 were CISF personnel and PW 4 was Sunil Kumar Rai. PWs 1, 2 and 3 have fully supported the case of the Management. PW 4 also supported the occurrence and taking out Rs. 160/- from his pocket as illegal gratification but in his cross-examination, he said that he is not in a position to identify the person who took the said money. Thus it appears that the occurrence was fully supported by all the witnesses. The management also brought on record the oral and documentary evidence to prove the recovery of money and that the petitioner was on duty at the relevant time. PWs 1 to 3 have said that PW 4 clearly recognised the petitioner as CISF personnel who took illegal gratification from him for returning of the gate pass. Only because PW 4 said in his cross-examination that he is not in a position to identify the CISF personnel who took money from him, the evidence of PWs 1 to 3 cannot be brushed aside.

9. It has come in evidence that the petitioner destroyed the letter handed over to him with which the gate passes were forwarded for verification. Admittedly a copy of the enquiry report was given to the petitioner and, therefore, even if the copy of seizure list/duty chart was not given, the same has not caused any prejudice to him. The defence witnesses have also been considered by the Enquiry Officer.

10. On consideration of the aforesaid materials on record, the Enquiry Officer found the petitioner guilty. Such finding were considered and accepted by the disciplinary authority, the appellate and the revisional authorities. I find no reason to interfere with the impugned orders. I further find no reason to interfere with the punishment of dismissal awarded to the petitioner in view of the gravity of the charge proved against him.

11. In the result, this writ petition is dismissed. However, no costs.