
(2014) 07 MAN CK 0016
In the Manipur High Court
Case No : W.P. (C) No. 1026 of 2000

Asem Tomba Singh

APPELLANT

Vs

The State of Manipur

RESPONDENT

Date of Decision : 14-07-2014

Acts Referred:

Citation : (2014) 07 MAN CK 0016

Hon'ble Judges : A.M. Sapre, C.J;N. Kotiswar Singh, J

Bench : Division Bench

Advocate : Kh. Tarunkumar., Advt, Advocate for the Appellant; R.S. Reisang, Sr. Govt. Advt, Advocate for the Respondent

Judgement

N. Kotiswar Singh, J.—Heard Mr. Kh. Tarunkumar, learned counsel for the petitioner.

2. The present application relates to the order dated 24.02.2000 by which the petitioner was dismissed from service on conclusion of a departmental enquiry. The said dismissal order was challenged before the Gauhati High Court by filing a writ petition, being, W.P(C) No. 1026 of 2000, which was allowed by the Court vide order dated 25.9.2002 by quashing the dismissal order. The matter was taken up by the State authorities unsuccessfully before the Division Bench of the High Court as well as before the Hon'ble Supreme Court of India. The Supreme Court while disposing of the related SLP and analogous matters directed for initiating de novo enquiry by placing the dismissed personnel under suspension from the date of the first suspension order in respect of one category and in respect of another category, the Hon'ble Supreme Court directed for fresh re-hearing of the writ petitions by the High Court by placing the writ petitioners under suspension from the date of their first suspension order. The present writ petitioner belongs to the second category and he continues to be in service. According to the petitioner, while the matter is pending before this Court as mentioned above, the Commandant, 7th Bn. Manipur Rifles issued an order dated 27.02.2012 whereby one personnel, namely, Md. Ayub Ali, who was

dismissed from service being involved in the same incident in which the petitioner was involved, had been taken back into service by imposing the penalty of stoppage of 5 years increment with cumulative effect and recovery of the cost for the loss of arms and ammunitions from him and by treating the suspension period as on duty. According to the petitioner, not only that, in respect of two other persons, namely, K. Lokeshwor Singh and Ng. Devan Singh, who were also dismissed from service on the charge of surrendering of arms and ammunitions, had approached the Gauhati High Court by filing a writ petition, W.P(C) No. 397 of 2001, and their cases also went upto the Hon''ble Supreme Court like the case of the present petitioner and their petitions which fall in the same category as the present petitioner, were heard by this Court. In respect of them, this Court disposed of the said writ petition, W.P(C) No. 397 of 2001 vide order dated 25.6.2013 by directing the state authorities to re-examine their cases by keeping into consideration various final orders passed by the authorities relating to the same incident, as follows:-

[7] This Court, having gone through the aforesaid orders referred to by the petitioners, has observed that the common thread which runs in all these orders is that the aforesaid personnel were initially dismissed from service on the charge of surrendering arms and ammunitions to the underground elements and the said dismissal orders were challenged before the High Court and ultimately fresh Departmental Enquiries were conducted and same were concluded by imposing the aforesaid major penalty of stoppage of increment with cumulative effect and for recovery of the costs of the arms and ammunitions lost.

The Court also has observed that two riflemen who were involved in the same incident of snatching of arms and ammunitions on 29.01.2000, namely, riflemen M. Itocha Singh and Md. Abdul Hamid, have been already reinstated in service by closing the Departmental Enquiry pending against them. Therefore, in view of the similarities in the nature of allegations against the petitioners and aforesaid personnel, and the decision of the disciplinary authorities to close the Departmental Enquiry by awarding major penalty in respect of the other personnel mentioned above, this Court is of the view that authorities can be directed to reexamine the cases of the petitioners by taking into consideration the aforesaid orders. The plea of the petitioners that the petitioners would be entitled to receive similar treatment at the hands of the authorities deserves consideration by the authorities. Accordingly we dispose of this writ petition with the direction to the respondent authorities to reexamine the cases of the petitioners keeping into consideration the various final orders passed by the authorities as mentioned and discussed above and pass appropriate orders by concluding the Departmental Proceedings against the petitioners. It may be noted that since we are disposing this writ petition with a direction to the authorities to reexamine the cases of the petitioners in the light of the orders discussed above without making any observation as regards the merit of this case, the petitioners would be at liberty to approach this Court again if they are aggrieved by the final order that may be passed against them as directed above.

The writ petition stands disposed of accordingly.

3. Mr. Kh. Tarunkumar Singh submits that the case of the petitioner could be considered in the light of the final order dated 27.02.2012 passed in respect of Md. Ayub Ali, who was involved in the same incident of 23.11.1999 at the residence of the then, Minister of State, Md. Hessamuddin at Kwakta by giving similar directions as given in W.P(C) No. 397 of 2001 as mentioned above. Learned counsel for the petitioner submits that the case of the petitioner can be disposed of in terms of the decision of this Court passed in W.P(C) No. 397 of 2001 as well as the final order dated 27.02.2012 passed in favour of Md. Ayub Ali.

4. Considering the above submission of the counsel of the petitioner as well as the respondents who did not object to such consideration, this Court is also of the view that the present application can be disposed of with a direction to the respondents to re-examine the case of the petitioner keeping into consideration the final order dated 27.02.2012 passed in respect of Md. Ayub Ali for retaining him in service involved in the same incident as the petitioner and also various other final orders passed by the authorities in similarly situated cases by concluding the departmental proceeding against the petitioner. It is also clarified that since we are disposing of this writ petition with a direction to the authorities to re-examine the case of the petitioner in the light of the various final orders passed in similarly situated cases including the case of Md. Ayub Ali, the petitioner will be at liberty to approach this Court again if he is aggrieved by any final order that may be passed against him.