
(2000) 08 PAT CK 0054
In the Patna High Court
Case No : C.W.J.C. No. 11656 of 1993

Devendra Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 03-08-2000

Acts Referred:

Citation : (2000) 3 BLJR 1986 : (2001) 1 PLJR 339

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Radha Mohan Prasad, J.—In this writ petition, the petitioner has, assailed the validity of the order of punishment dated 31.5.1990, contained in Annexure-6, whereby and whereunder his pay has been reduced to a lower stage of time-scale of pay by two stages for a period of two years and it has also been ordered that he will not earn increment of pay during the period of reduction and that on expiry of the said period, the reduction will have the effect of postponing his future increment of pay and also the orders passed on appeal, revision and review, contained in Annexures 7, 8 and 9 respectively.

2. In short, the relevant facts are that on 15.1.1990, the petitioner was on duty to guard Shed No. 6 of C.I.S.F. Unit, F.C.I. (F.S.D.), Dighaghat as In-charge Head Constable along with others, including one Laxman Singh, who was on duty on Door No. 16 of Shed No. 6. It appears that a proceeding was initiated against Constable Laxman Singh for neglecting his duty which resulted in breaking open of the lock and seal of Door No. 16 of Shed No. 6 by thieves and removal of three bags of sugar. A departmental proceeding was also initiated against the petitioner with respect to the same charge. Laxman Singh, in reply to the charge, admitted the guilt and promised that this type of negligence will not happen in future. Accordingly, he was found guilty of the charge, which, according to the disciplinary authority, was grave and liable for severe punishment, but taking the lenient view, he was inflicted with the penalty of

stoppage of one future increment for one year with cumulative effect, vide order dated 21.2.1990, contained in Annexure-5. The petitioner, however, did not admit the guilt and contested the charge. An inquiry was conducted by the inquiry officer and the copy of the inquiry report was supplied to the petitioner, on which he stated that he was not satisfied with the way of the inquiry officer conducted the inquiry. However, the disciplinary authority did not agree with the said plea and agreed with the findings of the inquiry officer and held the petitioner guilty. According to the disciplinary authority, the offence committed by the petitioner was grave and liable for severe punishment but, however, taking the lenient view, he imposed the above-mentioned punishment, vide impugned order contained in Annexure-6, which has been affirmed in appeal, revision and review by the impugned orders, contained in Annexures 7 to 9 respectively.

3. Learned Counsel for the petitioner, inter alia, submitted that the quantum of punishment imposed on the present petitioner is excessive and too harsh, especially in view of the quantum of punishment imposed on Constable Laxman Singh, who was on duty to guard Door No. 16 and due to his negligence, if any, resulted in commission of theft. The charge against Laxman Singh and the petitioner was same and the petitioner, though just being overall in-charge, has been inflicted with the punishment which is more than what has been inflicted on Laxman Singh. It has been submitted that in view of the fact that only allegation is that the theft was with respect to three bags of sugar, the impugned punishment imposed on the petitioner is excessive and disproportionate to the gravity of the charge, particularly when the charge is not directly attributable to the petitioner, who was only overall in-charge and not directly deputed to guard Door No. 16.

4. Learned Standing Counsel appearing for the respondents has submitted that since the petitioner was overall in charge of the shed, it was his duty to see that the Constables under him were performing their duties properly. The petitioner, on inquiry, has been found guilty of negligence from his duty and as such, the punishment imposed on him does not warrant any interference.

5. This Court is unable to accept the said submission of the learned Standing Counsel. This Court is quite conscious of the settled law that while considering the quantum of punishment, the High Court should not substitute its own view on the punishment imposed by the disciplinary authority, but having regard to the facts and circumstances of this case, this Court feels constrained to hold that the punishment imposed against the petitioner by the impugned order on the face of the order of punishment imposed against constable Laxman Singh, who was directly responsible for any negligence as he was on duty on Door No. 16, is excessive and cannot be sustained.

6. There cannot be any dispute that the petitioner being overall in-charge cannot be fully absolved of the negligence of the Constable posted on duty on Door No. 16, but it is too much to expect that he being overall in-charge should have also

been present all the time with the Constable Laxman Singh. Under such circumstances, this Court finds that the punishment imposed on this petitioner is excessive and not commensurate with the nature of his duty.

7. Accordingly, this writ petition is allowed. The impugned orders, contained in Annexures 6 to 9 are quashed. However, in view of the above finding that the petitioner being overall in-charge cannot be fully absolved of the charge, this Court finds it to be a fit case for awarding similar punishment to this petitioner also as has been awarded to Constable Laxman Singh. The respondent-authorities are directed to act accordingly. In the facts and circumstances, there shall be no order as to costs.