

(2009) 02 JH CK 0124

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4442 of 2005

Ex. Havaladar Mohd. Karim Khan

APPELLANT

Vs

State of Jharkhand and others

RESPONDENT

Date of Decision : 19-02-2009

Acts Referred:

Citation : (2009) 121 FLR 790

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : R.P. Gupta, for the Appellant;

Judgement

D.G.R. Patnaik, J.—Petitioner in this writ application has challenged the order of the Appellate Authority, whereby punishment of his dismissal from service, as imposed by the Disciplinary Authority, has been upheld.

2. Substance of charge against the Petitioner for which he had faced departmental proceeding, was that on 8.7.1999 when he was attached with the Judicial Magistrate (Railway) for ticket checking duty, he had assumed authority of ticket checking even in absence of Railway Magistrate and began demanding tickets from the passengers who had alighted from the train and had demanded money from those passengers who could not produce tickets. On the complaints made by the passengers, he had allegedly indulged in assault and misbehaviour with them.

3. The Petitioner had submitted his written statement in the disciplinary inquiry. Witnesses were examined. The Inquiring Officer after considering evidences on record had found the charges against the Petitioner proved. A copy of the Inquiry Report along with the second show-cause notice was served upon the Petitioner, to which he had submitted his written statement in his defence. The Disciplinary Authority after considering the entire aspects of the Inquiry Report, and written statement of the Petitioner, imposed punishment of dismissal from service against the Petitioner.

Against the order of his dismissal, the Petitioner had preferred an appeal before the Appellate Authority. The Appellate Authority had also considered the evidences on record and the findings recorded by the Inquiry Officer and, by recording its concurrence with the findings of the Inquiry Officer, had dismissed the Petitioner's appeal.

4. The Petitioner in this writ application has taken several grounds for assailing the impugned orders of the Disciplinary Authority as well as the Appellate Authority. Learned Counsel for the Petitioner however confines his grounds and arguments only to the quantum of punishment.

Referring to the Memorandum of Appeal filed by the Petitioner before the Appellate Authority, learned Counsel submits that the Petitioner had specifically pointed out instances of several cases of constables namely. Constable Mritunjay Rana, Constable Suresh Prasad, Constable Dhawak Lal Yadav, Constable Ramayan Ram and Havaladar Giridhari Rajak against whom departmental proceedings were initiated on identical charges namely, charges of illegal collection of money from the passengers and saulting the passengers and, all of whom though found guilty of the charges, were awarded punishment of stoppage of increments for two years, but they were not awarded any severe punishment as imposed against the Petitioner. Learned Counsel argues that the treatment meted out to the Petitioner in the matter of awarding punishment, is apparently discriminatory and the Petitioner has been subjected to harsh treatment as compared to other constables of his cadre.

5. From the impugned order of the Appellate Authority, it appears that it has not adverted to this aspect of the Petitioner's grounds while affirming, punishment imposed by the Disciplinary Authority. If on identical allegations and charges, the Disciplinary Authority did not consider dismissal from service as deserving punishment in respect of other police personnel, the Appellate Authority as well as the Disciplinary Authority ought to have assigned distinguishing features and reasons as to whether Petitioner deserves extreme punishment and not the punishment which was awarded to the other constables on identical charges.

6. In the light of the above facts and circumstances, in my opinion, it will be appropriate that the matter be remanded back to the Disciplinary Authority to reconsider the issue relating to punishment imposed on the Petitioner in the light of the instances cited by the Petitioner in his Memorandum of Appeal. The impugned order of dismissal is hereby set aside.

With the above observation, this writ application is disposed of.