
(2015) 04 JH CK 0071

In the Jharkhand High Court

Case No : Writ Petition (Service) No. 6622 of 2006

Gabrial Guria

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-04-2015

Acts Referred:

Citation : (2015) 04 JH CK 0071

Hon'ble Judges : Rongon Mukhopadhyay, J

Bench : Single Bench

Advocate : Pradeep Kumar, for the Appellant; Dhananjay Kumar Dubey, Sr. S.C. I, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rongon Mukhopadhyay, J.

1. Heard Mr. Pradeep Kumar, learned counsel appearing on behalf of the petitioner and Mr. Dhananjay Kumar Dubey, learned Senior S.C.I. for the Respondents.

2. The petitioner in the present writ application has challenged the order contained in memo No. 1062 dated 29.3.2006 passed by the Superintendent of Police, Gumla (respondent No. 4) in departmental proceeding No. 03 of 2006 by dint of which the petitioner was discharged from service. The petitioner has also made challenge to the order dated 25.8.2006 passed by the Deputy Inspector General of Police, South Chotanagpur Range, Ranchi (respondent No. 3), whereby he being the appellate authority dismissed the appeal preferred by the petitioner against the order dated 29.3.2006.

3. The petitioner was appointed on 1.5.1991 as driver constable and in course of his employment he was lastly transferred to Gumla in 1999. On 11.12.2005, the petitioner along with two other constables were deputed to escort a prisoner, namely, Pawan Kumar Gupta from Gumla Jail to Sadar Hospital, Gumla for specialized treatment. The accused however, escaped from the clutches of the

escort party for which an F.I.R. was also instituted on 11.12.2005. Since the petitioner was one of the members of the escort party, a departmental proceeding was initiated against him which was numbered as Departmental Proceeding No. 3 of 2005. Charge was framed against the petitioner and in course of enquiry the charges levelled against the petitioner were found true and resultantly vide order as contained in memo No. 1062 dated 29.3.2006 passed by the respondent No. 4., the petitioner was discharged from his service. An appeal followed, which also resulted in dismissal vide order dated 25.8.2006 issued by the respondent No. 3.

4. Learned counsel for the petitioner has submitted that in enquiry proceeding, the enquiry officer has not considered the defence of the petitioner inasmuch as the petitioner was never given an opportunity to adduce evidence and whatever evidences were relied upon by the enquiry officer were not of eye witnesses and in such circumstances, the enquiry report itself is prejudicial to the interest of the petitioner. It has also been submitted that a clear picture would have come out, had the fugitive, namely, Pawan Kumar Gupta examined in course of enquiry. It has been further submitted that two other persons, who were deputed to escort the said accused/prisoner, had left and it was only the petitioner from whose custody the criminal had fled and whatever charges have been levelled against the petitioner do not point to the negligence or dereliction of duty on the part of the petitioner.

5. Learned Senior Standing Counsel-I on the other hand submitted that in the enquiry report the charges were proved against the petitioner and accordingly disciplinary authority passed order of discharge which was subsequently affirmed in appeal and both the orders are well reasoned orders which do not merit any interference.

6. In the departmental proceeding, the charges levelled against the petitioner was to the effect that the petitioner was deputed to escort a criminal namely Pawan Kumar Gupta from Gumla Jail to the Sadar Hospital, Gumla for specialized treatment and the petitioner on 11.12.2005 had taken Pawan Kumar Gupta to his home where they had wine and in the meantime handcuffs of the accused were opened, which resulted in the accused fleeing away from the custody of the petitioner, which was proved in the departmental proceeding in course of enquiry. The disciplinary authority (respondent No. 4) who passed the order as contained in Memo No. 1062 dated 29.3.2006 had also considered the second show cause reply submitted by the petitioner.

7. Since the petitioner was a member of a disciplined force and that he was deputed to escort the said criminal who fled away from his clutches after having wine with him, is a grave misconduct, the petitioner was rightly discharged from service.

8. Admittedly, the petitioner being a member of the disciplined force had acted in a manner unbecoming of a police official and such acts on his part enabled the

criminal to escape and in such circumstances no leniency can be shown towards him. The appellate order passed by the respondent No. 3 has also considered the defence of the petitioner and has concurred with the findings of the respondent No. 4.

9. Learned counsel for the petitioner has failed to present any illegality which has been committed in course of the departmental proceeding and since the charge against the petitioner which is grave in nature had been proved, the order of discharge was rightly passed. In such circumstances, the order contained in memo No. 1062 dated 29.3.2006 passed by the Superintendent of Police, Gumla (respondent No. 4) in departmental proceeding No. 03 of 2006 and the order as contained in memo No. 1607 dated 25.8.2006 passed by the Deputy Inspector General of Police, South Chotanagpur Range, Ranchi (respondent No. 3) require no interference.

10. In view of the findings recorded above, this writ petition fails which is accordingly dismissed.