

(2009) 12 JH CK 0050
In the Jharkhand High Court

Gopal Singh Yadav

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 17-12-2009

Acts Referred:

Citation : (2009) 12 JH CK 0050

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the learned Counsel for the parties,

2. The prayer of the petitioner in this writ application is for quashing of the order dated 18.07.2002, as contained in Annexure-13 to this writ application, by which the Deputy Inspector General of Police, Bokaro (Respondent No. 4) has awarded punishment of compulsory retirement from the service to the petitioner.

3. The facts giving rise to this application, in short, are that the petitioner, who was an Assistant Sub-Inspector of Police and was posted in Saraidhela police station in the district of Bokaro, was served with a charge sheet for the charges that he misbehaved with two truck drivers, namely, Ranjit Kumar Singh and Pawan Kumar and snatched Rs. 1800/- from them at Koyla Nagar, Hirreck Road. Both the aforesaid two truck drivers gave information on telephone to the Senior Police officers thereafter the matter was investigated by the Deputy Superintendent of Police, who after making an enquiry found the allegations to be true. The petitioner was also identified in the test identification parade by the two truck drivers. The report was submitted by the Dy. S.P. to the Superintendent of Police on the basis of which the petitioner was put under suspension. Thereafter a departmental proceeding was initiated against the petitioner and on conclusion thereof an enquiry report was submitted to the Disciplinary authority, in which the charges against the petitioner were found to be proved. Show cause notice was issued to the petitioner and on consideration

of the enquiry report as well as the show cause filed by the petitioner, the Deputy Inspector General of Police, Coal Range, Bokaro, by his order as contained in Annexure-13 dated 18.7.2002 passed an order of punishment and the petitioner was inflicted punishment by way of compulsory retirement. The petitioner thereafter filed a departmental appeal before the Inspector General of Police, but it is said that no order on appeal was passed and thereafter the petitioner filed the present writ application challenging the order of his compulsory retirement.

4. Mr. P.A.S. Pati, learned Counsel appearing for the petitioner submitted that only on the basis of hear say evidences, which are not admissible in evidence, the petitioner has been found guilty and he has been awarded punishment of compulsory retirement and, therefore, the same is liable to be set aside.

5. It is the settled law that in a departmental proceeding the charges are not required to be proved beyond all reasonable doubts like a criminal trial, whereas the departmental proceeding is decided on the basis of preponderance of probabilities. In the present case from the impugned order as well as from the enquiry report it appears that two truck drivers did identify the petitioner as the person who snatched a sum of Rs. 1800/- from them.

6. When on the basis of evidence and materials on record, the enquiry officer as well as the Disciplinary authority have come to the finding on facts that the charges have been proved against the petitioner, then this Court sitting in writ jurisdiction cannot upset the findings of fact like a Court of appeal on reappraisal of evidence afresh, unless it is shown that the findings of facts arrived at by the enquiry officer or by the Disciplinary authority are perverse or are based on facts, which are not on the record.

7. After hearing the parties and after going through the impugned order, I do not find that there is any finding, which can be said to be not based on record or is perverse in any manner and, therefore, I find that the authorities concerned have not committed any error in holding that the charges against the petitioner were proved.

8. So far as the punishment of compulsory retirement is concerned, in my view, considering the gravity of the misconduct committed by the petitioner being a member of the disciplined force, the same is also not excessive or disproportionate to the charges.

9. For the reasons stated above, I am not inclined to interfere in the matter. Accordingly, having found no merit, this writ petition is hereby dismissed.

10. There will be no order as to the costs.