
(2001) 09 JH CK 0029
In the Jharkhand High Court
Case No : CWJC No. 276 of 2000

Jamuna Prasad

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 18-09-2001

Acts Referred:

Citation : (2002) 50 BLJR 174

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : A.K. Sinha, S. Arun and V.K. Sinha, for the Appellant; I. Sen Choudhary and Ashok Kumar, for the Respondent

Final Decision : Dismissed

Judgement

The Court

1. The petitioner has challenged the Resolution dated 16.12.1999 issued under the signature of Joint Secretary. Bihar State Electricity Board, whereby the respondents have directed to recover Rs. 26,500/- from the salary of the petitioner.

2. The facts of the case lie in a narrow compass. The petitioner was posted as Junior Electrical Engineer at Siwli Jari Supply Section in the District of Dhanbad. He was assigned duty of collection of revenue from the consumers. It appears that on the relevant date the petitioner alongwith one Udai Shankar Sinha, bill clerk/cashier of the said department, collected a sum of Rs. 1,06,000/- in cash and different cheques from the consumers and while returning to office some unknown miscreants looted away the money including cheques at the point of revolver. A criminal case was instituted in the Chirkunda Police Station being Chirkunda P.S. Case No. 303/95. The petitioner and the cashier also informed the incident to their higher authorities. An internal enquiry was conducted by the General Manager-cum-Chief Engineer. Dhanbad Area and a report was submitted, vide letter dated 25.5.1996. Thereafter an explanation was called for

from petitioner and pursuant thereto a detailed show cause was filed. The petitioner, inter alia asserted that he several times requested the authorities for providing the vehicle for the collection of revenue but no action was taken and hence the petitioner had no option but to collect the revenue by travelling in a motorcycle. However, the authorities, after enquiry, passed order on 9.2.1998 imposing three punishments i.e. censure, stoppage of annual increment and recovery of Rs. 26,500/-. The petitioner challenged the said order by filing CWJC No. 1919/98 (R). The said writ application was allowed by this Court in terms of order dated 22.9.1999 and the said order of punishment was quashed. The respondents were directed to pass a fresh order taking into consideration the direction and observation made in the said order. The respondents accordingly reconsidered the matter and confirmed their earlier order imposing three punishments and the same was communicated to the petitioner, vide Resolution dated 16.12.1999.

3. The case of the respondents in the counter affidavit is that the loss suffered by the respondent Board was because of violating the safety rules by the petitioner inasmuch as under the rule the transportation of sum exceeding Rs. 2000/- and above is required to be done by the departmental van or lorry. It is stated that the impugned order was passed by the respondents after considering the explanation dated 2.9.1996 submitted by the petitioner. It is stated that punishment has been awarded for lapses and omissions and commissions done by the petitioner in course of discharge of official duty.

4. From perusal of the impugned order of punishment, it appears that the petitioner has been held liable on two grounds; firstly he should have contacted the authorities for making available of the departmental vehicle for the purpose of collecting huge amount of revenue and secondly in absence of any departmental vehicle he should have hired a vehicle which was done earlier. In the explanation dated 2.9.1996 the petitioner has not disputed that under the rules collection of revenue from the consumers has to be done either by using the departmental vehicle or on a hired vehicle. However, it is stated in the explanation that on the date of occurrence a departmental jeep was in the Chirkunda Electrical Supply Sub-division but the Assistant Electrical Engineer did not send the departmental jeep. It is further stated in the explanation that carrying heavy amount by a hired taxi without any security was risky and, therefore, they carried the amount on a motor-cycle. It is, therefore, clear that the petitioner used the motor-cycle by taking his own decision without taking any written permission from the authorities of the respondent-Board. The petitioner ought to have asked the authorities to provide the departmental vehicle for carrying the money or he should have hired a taxi. Instead of following the rules the petitioner, of his own, took the risk and carried out such huge amount in a motor-cycle which resulted in looting of the said amount by the miscreants. Even assuming that the petitioner made request to the department for providing vehicle and it was not provided, he should not have violated the rules and took the decision of his own.

5. Taking into consideration the entire facts and circumstances of the case. I do not find any illegality or infirmity in the impugned order passed by the respondents.

6. For the reason aforesaid, no relief can be granted to the petitioner. This writ application is dismissed.

7. Application dismissed.