

(2009) 11 JH CK 0044
In the Jharkhand High Court

Kaushal Kishore Thakur

APPELLANT

Vs

Union of India (UOI), Sr. Commandant, Deputy Inspector
General, and Inspector General, C.I.S.F.

RESPONDENT

Date of Decision : 18-11-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 34, 341, 379, 448

Citation : (2009) 11 JH CK 0044

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—Present petition has been preferred, challenging the order at Annexure 2 to the memo of petition dated 31st March, 2008, whereby, the services of the present petitioner has been brought to an end. Annexure 3 to the memo of petition is an appellate order dated 30th July, 2008, passed by the Inspector General, C.I.S.F., Patna, whereby, the appeal, preferred by the present petitioner, has also been dismissed.

2. Learned Counsel for the petitioner submitted that the present petitioner was appointed as a Constable with effect from 29th May, 2004 whereas the criminal case was registered against the present petitioner on 2nd May, 2005 and, therefore, his services ought not to have been terminated on the ground that he has suppressed the registration of the criminal case, when he was appointed as Constable and, therefore, both the orders deserve to be quashed and set aside.

3. I have heard learned Counsel for the respondent-Union of India, who has submitted that the present petitioner was appointed as a Constable and he was on probation. The probation is a period of testing of all capacities of the present petitioner and if his conduct, work and efficiency are not up to the marks of satisfaction, his services can be terminated, during the period of probation and in the facts of the present case, a criminal case has been registered against the present petitioner for the offences, punishable under Sections 341, 323, 379,

504, 448 and 506, to be read with Section 34 of the Indian Penal Code and, thus, looking to the seriousness of the charges, including theft and giving threat to kill the other person etc. and looking to his dissatisfactory performance, the services of the present petitioner has been terminated, during the period of probation. It is also submitted by the learned Counsel for the respondents that apart from dissatisfactory performance of the duties, in past also the petitioner had assaulted a Constable, namely, J.P. Singh and, therefore, there was a reduction of pay of the present petitioner for one year with cumulative effect. Similarly, he was also given minor punishment of fine of three days' salary for absenteeism from duty. The period of probation of the present petitioner has also been extended from time to time, but, enough is enough. The Union of India cannot wait for much more time, so that the petitioner may do more misconduct and, therefore, during the period of probation, his services have been terminated and, thus, no illegality has been committed by the Union of India in terminating the services of such type of Constable, attached with the services of Central Industrial Security Force.

4. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case:

(i) It appears that the present petitioner was appointed as a Constable with the Central Industrial Security Force with effect from 29th May 2004;

(ii) It also appears that the petitioner was initially punished for misconduct of assaulting a Constable, namely, J.P. Singh and a major punishment of reduction of pay for one year with cumulative effect was awarded to the petitioner;

(iii) It also appears from the facts of the case that during the further period of probation, the petitioner has committed another misconduct and a minor punishment of fine of three days' salary was awarded for absenteeism from duty;

(iv) It also appears that the period of probation was extended from time to time from 2004 onwards;

(v) It also appears that still the behaviour of the present petitioner must have continued, as a criminal case has been registered at Ahiyaur Police Station, District-Muazaffarpur (Bihar) for the offences, punishable under Sections 341, 323, 379, 504, 448 and 506 to be read with Section 34 of the Indian Penal Code. Thus, the offences of theft and giving threat to other person etc. has been registered and keeping in view such type of behaviour, during the period of probation, the services of the present petitioner has been brought to an end.

5. Looking to the aforesaid aspect of the matter, there is no legal right, vested in the petitioner to continue with the respondents on the post of a Constable. During the period of probation, because of dissatisfactory work, the services of the present petitioner has been terminated, as per Annexure 3 to the memo of petition. Over and above this, in past also there are two misconducts committed by this very same petitioner and for third, a criminal case has been registered.

6. In view of the Central Industrial Security Force Rules, no illegality has been committed by the respondents in terminating the services of the present petitioner, who was on probation, especially when his work was not found satisfactory.

7. There is no substance in this writ petition and, hence, the same is hereby dismissed.