
(2009) 09 JH CK 0060
In the Jharkhand High Court
Case No : Writ Petition No. 6092 of 2007

Madhusudan Ram Sahu

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 11-09-2009

Acts Referred:

Citation : (2010) 124 FLR 96

Hon'ble Judges : M.Y. Eqbal, J;Jaya Roy, J

Bench : Division Bench

Advocate : Rajesh Kumar, for the Appellant; S. Srivastava, for the Respondent

Final Decision : Dismissed

Judgement

M.Y. Eqbal, J.—Heard Mr. Rajesh Kumar, learned Counsel appearing for the petitioner and Mr. S. Srivastava, learned Counsel appearing for the respondents.

Petitioner has challenged the order dated 27.7.2007 passed by the Central Administration Tribunal, Circuit Bench, Ranchi in O.A. No. 134/2006 whereby the Tribunal dismissed the petitioner's application seeking reduction of his punishment awarded in the disciplinary proceeding.

2. The facts of the case lie in a narrow compass.

Petitioner, Ex-Servicemen, was appointed as caretaker in the office of the respondent-Accountant General (A & E) Ranchi. He was subsequently re-designated as Senior Caretaker. In the year 1994, while working as such, petitioner was served with a charge-sheet alleging that he has failed to provide proper security measures to save the office properties and because of his act of misconduct, the Office lost one generator set from the premises. Petitioner was also charge-sheeted for keeping cattle in his official residence which is adjacent to the main office in violation of the order of the Estate Officer. Since the petitioner was found guilty of some of the charges, penalty of compulsory retirement was imposed by the Disciplinary Authority. Petitioner ultimately

challenged the said punishment so awarded by filing application before the Tribunal in the year 1996 being O.A. No. 227 of 1996. The Tribunal disposed of the application in terms of order dated 15.12.2000 holding that punishment of compulsory retirement is in a higher side and, therefore, direction was issued to the Appellate Authority to consider the matter afresh regarding quantum of punishment. The Appellate Authority then took the view that the Disciplinary Authority though in his order held that dismissal from service could have been the appropriate punishment, yet a lenient view was taken and the punishment of dismissal was converted into a punishment of compulsory retirement, petitioner again moved the Tribunal by filing O.A. No. 41/2001 and the matter was again remanded to the respondent-Appellate Authority to reconsider the appeal filed by the petitioner, having regard to the fact that in case of compulsory retirement, petitioner would not be entitled to pensionary benefits. Despite the fact that petitioner completed only eight years and eight months of service and not ten years of service till the date of Compulsory retirement, he has been authorised to post retirement benefits as admissible to an official with less than ten years of qualifying service.

3. In 2004, the order of remand passed by the Tribunal came for consideration before this Court in W.P.S. No. 3780/2004. In the said writ petition, however, it was agreed between the parties that the matter needs to be considered by the Revisional Authority. Accordingly, the writ petition was disposed of with a direction to the Revisional Authority to consider the order passed by the Appellate Authority. The Revisional Authority heard the parties and finally came to the conclusion that the enquiry procedure was meticulously followed and the charges against the petitioner were established. The Revisional Authority further found that petitioner has been authorized benefit of post retirement as admissible to an official with less than ten years" of qualifying service.

4. From perusal of the impugned order passed by the Tribunal, we found that the Tribunal has considered all the orders time to time passed by the Departmental Authority and the order passed by the Authority needs no interference inasmuch as punishment of compulsory retirement imposed upon the petitioner cannot be reduced.

5. It is well settled that Court should not interfere with the quantum of punishment when misconduct is proved. In the case of *Union of India and others v. Narain Singh* 2002 (94) FLR 152 (SC), the Supreme Court observed:

9. As seen above, the Division Bench notes that the charges against the respondent are proved and that charges are of serious nature. Once the Court came to the conclusion that the charges were proved and that the charges were of a serious nature, it was not the function of the Court to interfere with the quantum of punishment. The Division Bench was wrong in holding that factors viz. (a) the person is coming from which place (b) his family background, and (c) his service record etc. were to be kept in mind. In our view, the Division Bench was also wrong in holding that if a poor person pleads guilty to the misconduct,

then extreme penalty of dismissal is uncalled for. In our view a Court must not lightly interfere with sentences passed after a properly conducted enquiry where the guilt is proved. Reduction of sentence, particularly in military, paramilitary or police services can have a demoralising effect and would be a retrograde step so far as discipline of these services is concerned. In this case the charges being of a serious nature the penalty was commensurate with the charges. Further the Division Bench has itself noted that this was the third time the respondent was punished.

6. Similarly, in the case of Chairman and Managing Director, United Commercial Bank and others v. P.C. Kakkar 2003 (96) FLR 1067 (SC), similar view has been taken by the Supreme Court holding that punishment imposed in a disciplinary proceeding need not to be interfered with unless the punishment is shocking, and disproportionate to the charges levelled against the delinquent.

7. Having regard to the facts of the case and the orders time to time passed by the Tribunal and the Disciplinary Authority, we do not find any reason to interfere with the order of punishment passed by the Disciplinary Authority, particularly, when charges were proved against the petitioner in the departmental proceeding.

For the reasons aforesaid, there is no merit in this writ petition, which is, accordingly, dismissed.

JAYA ROY, J.--I agree.