
(2014) 12 JH CK 0030
In the Jharkhand High Court
Case No : W.P.(S) No. 104 of 2006

Maresh Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 12-12-2014

Acts Referred:

Citation : (2015) 3 JLJR 78

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Indrajit Sinha, Kumar Vimal and Arpan Mishra, Advocate for the Appellant; Saket Upadhyay and Vikas Kumar, Advocate for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties.

2. The petitioner, who was a Constable posted at Gomoh Railway Police Station was proceeded against under departmental proceeding No. 1/2001 for 11 charges.

3. The charges allege that on 24th December, 2000 at 17.15 Hrs. the petitioner while he was supposed to board in 3151 Up Sialdah Express for escort duty loaded his rifle and thereafter in unbecoming manner sat on the table at the railway police station, which was objected by the Officer Incharge. Thereafter, the reader present there and Officer Incharge were threatened with dire consequences as both of them had made report against him. He also aimed his rifle at the Officer Incharge with an intention to shoot but the Havildar and the other constables started running here and there on being scared, as a result he could not shoot at them. The petitioner kept on threatening the Havildar and the constables as well that they should leave soon, otherwise they would also face the consequences. The Reader, Mahendra Hazari in order to save himself went out on the platform and started running while the petitioner started chasing him. Had the platform be not full of passengers, he would have certainly been shot at. He again attempted to shoot at the officer Incharge, Lalit Kumar Singh,

whereupon the Officer Incharge managed to get out of the police station and ran up to the office of Sub Inspector and fell unconscious. It is alleged that had these persons not made attempt to escape they would have been killed by the petitioner.

4. The charge-sheet also refers to previous misconduct of the petitioner on 13th December, 2000; 3rd February, 2000 and 1st February, 2000 as well.

5. It is not in dispute that the petitioner had earlier been imposed with an punishment of withholding of annual increment of 2 years which would be equivalent to three black marks in the departmental proceeding No. 16/2000, Annexure-A to the counter affidavit, dated 21st February, 2003. The petitioner was proceeded against for the aforesaid charges in the departmental inquiry, in which he participated and the prosecution also adduced 4 witnesses, 3 of whom supported the incidence while the other constable stated that he had not heard anything of that kind due to severe noise. The petitioner after submission of his reply to the second show cause notice has been punished with dismissal from service by the impugned order passed by the Superintendent of Police, Railway, Dhanbad dated 21st June, 2003, Annexure-6.

6. The petitioner's appeal has also been rejected by Deputy Inspector General of Police (Railway), Jharkhand Ranchi, respondent No. 3 by the impugned order dated 15th October, 2013. His appeal memorial before Director General of Police, Jharkhand has also been rejected by the impugned order dated 25th October, 2005.

7. All these impugned orders are under challenge in the present writ application by the petitioner on the grounds that they are illegal, perverse and the punishment is not commensurate to the alleged misconduct.

8. Learned counsel for the petitioner has submitted that on a presumption that the petitioner would have shot Officer Incharge, constable or reader, a wholly disproportionate punishment of dismissal from service has been imposed upon him. It is submitted that the act of the petitioner on this occasion was a natural reaction to the provocation given to him on account of abuses hurled upon by the concerned persons. However, apart from such momentary reaction no deliberate and intentional act can be attributed against the petitioner that he had actually meant to kill these persons through his official rifles. It is further submitted that out of 3 instances of previous misconduct one was only proceeded against, for which he has been punished but the rest two had never been held against the petitioner in a departmental proceeding and therefore cannot be made a basis to come to the findings of guilt for imposing punishment. Therefore, the impugned orders suffer from perversity and also is wholly disproportionate to the alleged misconduct which requires to be interfered.

9. Learned counsel for the Respondent-State has submitted that the charges against the petitioner amounted to acts of serious indiscipline of a person engaged in an uniform police force. Even though the actual act of killing may not

have resulted on account of the threatening position taken by the petitioner by use of his official arms but that itself was a sufficient act of indiscipline to impose the punishment of dismissal from service. Such a behaviour in the uniform police force and that too against the superior official cannot be condoned in the eye of law. He has relied upon the judgments rendered by Hon''ble Supreme Court in the case of L.K. Verma Vs. H.M.T. Ltd. and Another, , paragraph 22 and in the case of The Commandant, 22 Battalion, CRPF Srinagar, C/o 56/APO and Others Vs. Surinder Kumar, , paragraphs 14 and 15 in support of his aforesaid contention. It has been stated that even a verbal abuse sometimes may be enough to impose punishment of dismissal from service. It is further submitted that there is no procedural lapses in the conduct of departmental proceeding and the charges have been established after due compliance of the principle of natural justice.

10. I have heard learned counsel for the parties and gone through the relevant materials on record including the judgments relied upon by the learned counsel for the Respondent-State.

11. The charges, for which the petitioner has been proceeded against, and are referred hereinabove as well on being established after due compliance of principle of natural justice and procedural norms in the departmental proceeding amount to serious acts of indiscipline on the part of the person who was posted as a Constable in the uniform Police force. He actually appears to have threatened by misuse of his official arms his own superior i.e. Officer Incharge with an intention to kill and it further appears that such an instance took place in the busy place which is adjacent to the platform. The contention of the petitioner raised in respect of veracity of the allegations have been duly inquired into in the departmental proceeding and has also been considered by the appellate authority in the order passed in appeal and did not merit any acceptance. The charges were supported by the 3 witnesses who were the Officer Incharge of the Railway Police Station, the Inspector of Police and also the Reader, Mahendra Hazari, two of whom appear to be witnesses to the occurrence.

12. In such circumstances, it cannot also be said that the petitioner has been imposed with a disproportionate punishment as such acts of indiscipline in uniform police force should not be condoned. The appellate authority as well as Director General of Police in the appeal memorial preferred by the petitioner all have upheld the order of punishment and the findings of fact have been concurred by the appellate authority as well as revisional authority. No other grounds for interference are also made out on the part of the petitioner in the impugned orders. Therefore, the writ petition being devoid of merit and is dismissed.