
(2009) 05 JH CK 0014
In the Jharkhand High Court

Manoj Kumar Azad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 19-05-2009

Acts Referred:

Citation : (2009) 05 JH CK 0014

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present petition has been preferred mainly against the action of the respondent authorities, discharging the present petitioner from service, who was working as a Constable with the respondents.

2. Several charges were levelled against the present petitioner. A departmental inquiry was conducted for the charges, leveled against the present petitioner, which were proved and the petitioner was discharged from the services, vide order dated March 31, 2005.

3. It is contended by the learned Counsel for the petitioner that the quantum of punishment is grossly disproportionate to the gravity of the charges. It is submitted by the learned Counsel for the petitioner that looking to the nature of charges, the punishment, inflicted upon the present petitioner, is shockingly disproportionate to the gravity of charges and, therefore, the order impugned, passed by the respondent authority dated March 31, 2005 deserves to be quashed and set aside. Likewise, the order, passed in departmental appeal, dated July 7, 2005, also deserves to be quashed and set aside.

4. I have heard learned Counsel for the respondents, who has submitted that there are as many as four charges, levelled against the present petitioner. The present petitioner was working in the Police Department and the personnel of the Police Department are wedded with discipline. Looking to the nature of charges, levelled against the present petitioner, at Annexure 2 to the memo of present

petition, all the four charges are serious in nature. The present petitioner has beaten another police, when he was on duty. So far as charge No. 2 is concerned, the present petitioner, while on duty, was taking lunch and dinner at the service place instead of taking lunch and dinner in the police mess. So far as third charge is concerned, the present petitioner was not wearing the cap and was not properly affixing his token and whenever, he was told or objected, he was not giving proper answer to the higher officers. The petitioner was remaining in Bazar/market. The fourth charge, levelled against the present petitioner, is that he was giving threat to another guard, namely, Afzal Khan. All these charges, as per the submissions, made by the learned Counsel for the respondents, have been proved. The respondents have examined as many as eight witnesses and the report has been given by the inquiry officer on November 9, 2004, which is at Annexure 3 to the memo of present petition. It is also submitted by the learned Counsel for the respondents that considering the aforesaid facts, punishment was inflicted upon the present petitioner vide order dated March 31, 2005, which is at Annexure 4 to the memo of present petition, discharging the petitioner from the services. Thereafter, a second show cause notice was given and in the departmental appeal also the decision of the disciplinary authority was confirmed vide order dated July 7, 2005, wherein, it has been held that the charges are proved against the petitioner and the quantum of punishment has also been maintained in the departmental appeal. The order, passed in departmental appeal, is at Annexure 6 to the memo of present petition. Thus, looking to the seriousness of the charges, it cannot be said that the punishment, inflicted upon the present petitioner, is grossly disproportionate or shockingly disproportionate to the gravity of charges, levelled against the petitioner, and, therefore, this writ petition may not be entertained by this Court.

5. Having heard learned Counsel for both the sides and looking to the facts and circumstances of the case, it appears that there are serious charges, levelled against the present petitioner. There are as many as four charges, levelled against the present petitioner, which are at Annexure 2 to the memo of present petition. Mainly, the charges against the present petitioner are that he was using filthy language and has beaten one guard, namely, Afzal Khan, and has given threat. He used to bring his food from the police mess and to eat at the place, where he was performing his duties. Looking to the inquiry report, at Annexure 3 to the memo of present petition, and looking to the evidence of as many as eight witnesses, examined by the respondents, during departmental proceedings, no error has been committed by the inquiry officer in holding that the charges, levelled against the present petitioner, are proved. The report of the inquiry officer is dated November 9, 2004. Thereafter, it appears that the order of discharge has been passed by respondent No. 5 dated March 31, 2005, which is at Annexure 4 to the memo of present petition. Looking to the said order also, it appears that a very balanced view has been taken of the whole matter by respondent No. 5. The punishment; inflicted upon the present petitioner, can never be levelled as shockingly disproportionate or grossly disproportionate to

the gravity of the charges. Being a police officer, the present petitioner ought to have behaved properly and, time and again, the present petitioner has disobeyed the higher officers' suggestions, even of wearing his cap properly, which reflects his negative approach towards the high-ranking officer. During office hours, the present petitioner was eating food articles by bringing them from the police mess. During the job hours, he has beaten another police personnel and after office hours, he used to remain in market.

6. In view of the aforesaid facts, the order, passed by respondent No. 5, dated March 31, 2005, at Annexure 4 to the memo of present petitioner, is absolutely true and correct and no error has been committed by respondent No. 5 in inflicting the punishment of discharge from service of the petitioner. Necessary opportunity of being heard has also been given to the present petitioner, by issuing noticed. The departmental appeal, preferred by the petitioner, has also been dismissed vide order dated July 7, 2005, which is at Annexure 6 to the memo of present petitioner. Looking to this order also, no error has been committed by respondent No. 4, in dismissing the appeal. There is no procedural lapses also, second show cause notice and other opportunities having already been given to the present petitioner.

7. In view of these facts and looking to the nature of charges, which have been proved with the help of the evidence of eight witnesses, examined by the respondents, during the departmental proceedings, and looking to the fact that not a single witness has been examined by the present petitioner, and looking to the quantum of punishment, I am of the opinion that the impugned punishment cannot be labelled as grossly disproportionate or shockingly disproportionate to the gravity of the charges. Hence there is no substance in this writ petition, which is, hereby, dismissed.