

(2002) 04 JH CK 0061
In the Jharkhand High Court
Case No : Writ Petition (S) No. 181 of 2002

Murlidhar Dubey

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-04-2002

Acts Referred:

Citation : (2002) 04 JH CK 0061

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Anil Kumar Sinha and Manoj Kr. Sah, for the Appellant; Ritu Kumar, GP IV, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—The petitioner was inflicted major punishment of stoppage of three increments with cumulative effect with further orders not to pay salary for the period of suspension, except the subsistence allowance and to transfer him to another post by order contained in Memo No. 3365 dated 27th July, 2000 passed by the District Superintendent of Education, Ranchi (D.S.E. for short). It was affirmed by the Commissioner, South Chhotanagpur Division. Ranchi, vide order dated 5th October. 2001 passed in Service Appeal No, 10-10/2001.

2. Both the aforesaid orders are under challenge in the present writ petition.

3. As the writ petition can be disposed of on short point, on hearing the parties, it is not necessary to discuss all the facts except the relevant one.

4. The petitioner who was suspended vide Memo No. 1854 dated 6th June, 1998. whereby charge-sheet was also communicated by D.S.E., Ranchi. One Shri Aditya Chandra Sharma. Regional Education Officer. Mandar was appointed as Enquiry Officer, who submitted some report whereinafter the impugned order of punishment was passed on 27th July, 2000.

5. The ease of the petitioner is that the departmental proceeding was not held in accordance with law as he was not given proper opportunity. He was not even paid subsistence allowance during suspension and the order of major punishment was passed without supplying the copy of enquiry report.

6. The respondents, on the other hand, pleaded that the petitioner was given proper opportunity during the enquiry whereinafter the order of punishment was passed.

7 It will be evident from the charge-sheet dated 6th June, 1998 that six of the charges levelled against the petitioner, all of them are vague. They are not supported by any list of evidence or witness.

8. There is nothing on the record to suggest that any list of evidence or witness was prepared by the D.S.E.. Ranchi and served on the petitioner. The charges are vague will be evident from the charges itself. which are as follows :--

Charge No. 1 : During the inspection by Inspecting Officer, he used indisciplined language:

Charge No. 2 : Though the school is a Middle School, only 17 (seventeen) students were found present;

Charge No. 3 : He does not keep interest in increasing the number of student in the school.

Charge No. 4 : He does not come in school in time;

Charge No. 5 : Whenever he comes to the school, he used to sleep in a small cot in a small room of the school.

Charge No. 6 : He violates the orders of the Controlling Officer.

9. Neither any specific instance of aforesaid charges has been cited nor the name of any individual Inspecting Officer/or Controlling Officer shown in the charges. It is not made clear as to how a Head Master is responsible if less number of students attend the school, nor it is mentioned as to whether the Government imposed any duty on the Head Masters to increase the number of students of a school.

10. Apart from the aforesaid infirmities. It has not been denied that the petitioner was not even paid the subsistence allowance during the period of suspension.

11. In the aforesaid background, the order of punishment cannot be upheld. The order dated 27th July, 2000 and the appellate order dated 5th October, 2001 are accordingly set aside with directions to the respondents to pay the petitioner the full salary for the period of suspension.

12. The writ petition is allowed with the aforesaid observations and directions.