
(2009) 09 JH CK 0045
In the Jharkhand High Court

Pradeep Kumar Tewari

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-09-2009

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2009) 09 JH CK 0045

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. The petitioner was appointed as a Constable in the then Bihar Military Police on 11.06.1997 and he joined the said post on 03.07.1997. He was put under suspension in contemplation of the departmental enquiry. Subsequently, vide memo No. 308 dated 28.01.2000, the petitioner was served with charges that a unanimous complaint was received wherein it was alleged that the petitioner's School Education Certificate submitted by him was false and he illegally obtained the said Certificate though he did not even study in the School mentioned in the said Certificate. This allegation was inquired into through one Sub Inspector Ramadhar Singh who reported that the petitioner did not study in the said School and the Certificate was not issued from that School. The petitioner was asked to file a written explanation.

3. The petitioner tiled a detailed written explanation denying and refuting the charges. According to the petitioner, the charge was false and the report of the Sub Inspector Ramadhar Singh wa''s without any basis and without making any proper inquiry he submitted the report.

The petitioner also stated that he did not submit any Certificate of Class-VIII Pass rather he submitted Certificate of Class-VII Pass. The explanation of the petitioner was not found satisfactory and, thereafter, departmental inquiry was

initiated against him which was conducted by the Deputy Superintendent of Police, Jharkhand Armed Police. Oral and documentary evidence were adduced in course of inquiry by the department against the petitioner as well as by the petitioner against the department. The Enquiry Officer, after full fledged inquiry, submitted his inquiry report contained in Annexure-11 wherein he held that on the basis of evidence, both oral and documentary, charge against the petitioner was found to be proved and it was established that the petitioner never studied in the School which is mentioned in the Certificate and the Certificate submitted by the petitioner itself was never issued by the said School.

4. Notice was issued to the petitioner to submit explanation against the finding arrived at by the inquiry officer which was submitted by him and, thereafter, it appears that the disciplinary authority i.e. the Commandant, Jharkhand Armed Police - 2, Tatisilwai, Ranchi by Order dated 17.04.2002 as contained in Annexure-13, awarded punishment to the petitioner from dismissal from service. The petitioner, thereafter, preferred departmental appeal before the Deputy Inspector General, Jharkhand Armed Police, Ranchi which was also dismissed by a reasoned order on 30.09.2002 as contained in Annexure-15.

5. Thereafter, the petitioner preferred revision before the departmental revision prescribed under Rule 853 of the Bihar Police Manual before the Director General - cum - Inspector General of Police, Jharkhand Armed Police, Ranchi, which was also dismissed by order dated 11.03.2003 as contained in Annexure-16 which has been challenged by the petitioner in this writ petition.

6. Mr. Ajit Kumar, learned Counsel appearing for the petitioner submitted that findings of the enquiry officer are perverse and not based on records and consequently, the orders passed by the Disciplinary Authority, appellate authority as well as revisional authority not based on materials on record and, therefore, they are liable to be set aside.

7. From the impugned order as contained in Annexures - 13, 15 and 16 as well as from the inquiry report, I find that the authorities concerned have given concurrent findings of fact on the basis of materials on record and have come to a definite findings that the evidence on record disclose and establish the fact that it was the petitioner who submitted fake certificate of a School in which he never studied. The evidence brought on record clearly establishes that the certificate submitted by the petitioner at the time of his initial appointment was never issued by the said School which was mentioned in the Certificate. The concurrent findings of fact on this point cannot be disturbed by 1 his Court in exercise of its supervisory jurisdiction under Articles 226 and 227 of the Constitution of India in view of the case of Syed Yakoob v. K.S. Radhakrishnan and Ors. reported in AIR 1664 SC 477 wherein it has been held that the findings of fact cannot be reopened by the Writ Court and only error of law can be corrected and not error of facts howsoever grave it may be.

8. In any view of the matter, after going through the impugned Orders, I find

that the findings arrived at by the authority concerned were based on materials and evidence on record and, therefore, are not perverse in any manner.

9. Accordingly, having found no merit, this writ petition is dismissed.