

(2009) 07 JH CK 0043
In the Jharkhand High Court

Rajendra Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-07-2009

Acts Referred:

Citation : (2009) 07 JH CK 0043

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel J.

1. Learned Counsel appearing for the petitioner submitted that the petitioner has been given punishment for the misconduct committed by him and an appeal has also been preferred by the present petitioner and the same has been dismissed by the respondents end, therefore, the present petition has been preferred.

2. Having heard learned Counsel for the petitioner and looking to the facts and circumstances of the case, it appears from the facts of the present case that:

(i) The present petitioner is working as Sergeant Major and he was requested several times orally as well as in writing to send the "Daily Parade Statement". For the reasons best known to the petitioner, he was never sent the Daily Parade Statement" to the higher officer.

(ii) It appears that, therefore, a chargesheet was issued to the present petitioner, which is at Annexure 1 to the memo of the present petition. It also appears that despite the concerned Superintendent of Police was requesting in writing as well as orally, for the period of more than two months to send the "Daily Parade Statement", the petitioner was not sending the said Statement.

(iii) It appears that, thereafter, Inquiry Officer was appointed. Inquiry was carried out and the Inquiry Officer submitted his report for taking a final decision upon the quantum of punishment against the present petitioner.

(iv) Looking to the order Annexure 2, it appears that misconduct has been proved, evidence was taken even it has been recorded in Annexure 2 that the petitioner has not given reply of the chargesheet. Looking to the nature of misconduct and looking to the deliberate action on his part and doing too repeatedly, one "Black Mark" has been given as a punishment vide order dated 31st August, 2004 (Annexure 2 to the memo of the present petition).

(v) It appears that, thereafter, a departmental appeal was preferred by the present petitioner, but, the same has also been dismissed vide order dated 17th June, 2005, which is also at Annexure 2 to the memo of the present petition.

(vi) Looking to the aforesaid two orders, it appears that chargesheet was given, inquiry was conducted, there was no reply of the chargesheet, evidence was taken by the respondents and looking to the nature of misconduct, the punishment has been inflicted, which has been confirmed in the departmental appeal proceedings. Looking to these procedures, it appears that there is no procedure defect in holding the inquiry. Petitioner was given opportunity to defend the allegations or to plead his case. Report of Inquiry Officer, is based upon evidence and not upon extraneous considerations.

(vii) It also appears that though the petitioner was working as a Sergeant Major, he has not sent the Daily Parade Statement to the higher officer and that too though he was repeatedly requested in writing as well as orally. Looking to his deliberate action and consistent defiance of the order and being police personnel and looking to the quantum of punishment, it can not be said that it is grossly disproportionate or the punishment inflicted upon the present petitioner is shockingly disproportionate.

3. As a cumulative effect of the aforesaid facts and reasons, there is no substance in this petition and, hence, the same is, hereby, dismissed.