
(2016) 09 JH CK 0067
In the Jharkhand High Court
Case No : W.P. (S) No. 1671 of 2012

Rajesh Kumar

APPELLANT

Vs

Steel Authority of India Limited

RESPONDENT

Date of Decision : 06-09-2016

Acts Referred:

Citation : (2017) 2 AIRJharR 431 : (2017) 1 JCR 549

Hon'ble Judges : Mr. Pramath Patnaik, J.

Bench : Single Bench

Advocate : Mr. Brij Bihari Sinha, Advocate, for the Petitioner; Mr. Rajiv Ranjan, Sr. Advocate and Mr. Shreshtha Gautam, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Pramath Patnaik, J.—In the accompanied writ application, the petitioner has inter-alia prayed for issuance of a writ/direction in the nature of Certiorari for quashing the impugned office order dated 24.07.2010 passed by the Respondent No.2 whereby, the order has been passed in pursuance to the order dated 19.03.2010 in W.P.(S) No. 2339 of 2004.

2. Bereft of unnecessary details, the relevant facts as disclosed in the writ application, in a nutshell, is that, the petitioner has preferred the writ petition bearing W.P.(S) No. 2339 of 2004 challenging the order of removal from services and the said writ petition was disposed of vide order dated 19.03.2010 by setting aside the order of punishment and the matter was remitted back to the disciplinary authority to reconsider the entire issue regarding the quantum of punishment as per Annexure-1 to the writ application. The respondent authorities passed an order dated 24.07.2010 which has been communicated to the petitioner vide forwarding letter dated 31.07.2010 restoring the previous order of dismissal as per Annexure-2 to the writ application.

Being aggrieved by the order which has been communicated to the petitioner vide forwarding letter dated 31.07.2010 restoring the previous order of

dismissal, the petitioner left with no other alternative efficacious and speedy remedy has approached this Court invoking extra-ordinary jurisdiction under Article 226 of the Constitution of India for redressal of his grievances.

3. Per-contra the respondents have filed counter-affidavit repelling the averments made in the writ application. In the counter-affidavit, it has been submitted that in pursuance of the order of the Hon'ble High Court dated 19.03.2010, passed in W.P. (S) No. 2339 of 2004 the Disciplinary Authority has passed an order dated 24.07.2010, which was communicated to the petitioner vide forwarding letter dated 31.07.2010 which is neither illegal nor unconstitutional. It has further been submitted that while passing the order dated 24.07.2010, the charges imputed on the petitioner and two proceedees, namely, Sri A. Kumar and S. Ray have been examined and charges imputed on them were not identical/same as because accountability and responsibility were different. It has further been submitted that Sri S. Roy was in charge of Cash Section of Finance and Accounts Department of the respondent Company during the period of August 1998 to July 2000 and the petitioner joined the said Department during his tenure as In Charge of the said Department. Though the bouncing of the cheques remained continued throughout the year 2000-01 and even during April, 01. It has further been submitted that being Incharge of the Department he was charge sheeted for lack of interest in effective monitoring of status of encashment of cheques. Thus Sri Roy failed to get the Bank statement and BRS examined properly which resulted into late encashment of cheques. Whereas, petitioner not only misguided the investigating agency by saying that no one was doing the job of reconciliation but he suppressed the information and did not bring the same to the notice of Office In charge of the said Department and in such a manner, he encouraged M/s. Vikas Steel in carrying out the fraud of delaying encashment of its cheques. On the merit of the appeal, the Appellate Authority reduced the quantum of the punishment inflicted on Sri Roy, xerox copy of the appeal of Sri S. Roy and order of the Appellate Authority has been annexed as Annexure-B to the counter affidavit. It has further been submitted that Sri Ajay Kumar being Chief Finance Manager (Cash) did not evolve working mechanism to get timely feed back for taking corrective actions. It has further been submitted that in the event of delayed encashment of cheques, this shows his indifferent way of working. Further he did not pay attention to detect delay which caused loss to the Company. Accordingly, charges imputed on Sri Ajay Kumar could not be equated with the charges imputed on the petitioner. It has further been submitted that when the petitioner joined, Sri R. N. Das was transferred from Cash Section. It has further been submitted that there was no written job allocation in respect of the petitioner. It has further been submitted that this does not mean that he was not assigned jobs to perform. There were so many assignments which the petitioner done for which no written order was issued and this implied that he was working on oral instruction. It has further been submitted that in pursuant to the order passed by this Court, Ranchi dated 19.03.2010 in W.P. (S) No. 2339 of 2004 filed by the petitioner, comments were

offered by the Vigilance on 02.06.2010 and as directed by this Court, the case was considered and appropriate decision was taken on the quantum of punishment commensurate and corresponding to the responsibility, facts, findings and charges of the petitioner. It has further been submitted that impugned office order dated 24.07.2010 has been passed by the competent authority after considering the entire materials, facts, documents, records, report of the Enquiry Committee, CVC reports etc. It has further been submitted that the charges against the petitioner were (i) he failed to examine Bank statement and monthly BRS and failed to report regarding non encashment of cheques of M/s Vikash Steel during year 2000-01 (ii) he exhibited total lack of interest/action of interest/action on the important information given by the assistant working under him regarding many mismatch in the receiving credit in the BRS of April and May 2000 in respect of M/s Vikash Steel (iii) he did not bring out the fraud committed by M/s Vikash Steel throughout the year 2000-01 regarding the encashment of its cheques and the information available in the BRS and in the Bank statement in the notice of his higher authorities (iv) he misguided the investigating agency of the Company by stating that there was no one in the cash section to check whether financial instrument are credited in time in the account of the Company and thus the petitioner violated 4.0 (1) and committed misconduct as brought out at 5.0 (1), 5.0 (5), 5.0 (9) & 5.0(2) of SAIL CDA Rules, 1977 and the said charges have been proved in the enquiry report. It has further been submitted that CVC, an independent body in their office memorandum vide order dated 17.12.2002 and 25.08.2003 in the said case has advised for imposition of stiff major penalty, wherein, the petitioner although has been given ample opportunity to defend himself, but has miserably failed. Thus, the quantum of punishment commensurate with the misconduct committed by them and the order dated 24.07.2010 was passed by the Disciplinary Authority after considering the entire materials, facts, documents, records, report of the Enquiry Committee, CVC reports etc. Accordingly, the prayer has been made for dismissal of the instant writ application in limine.

4. Heard Mr. Brij Bihari Sinha, learned counsel appearing for the petitioner and Mr. Rajiv Ranjan, learned senior counsel appearing for the respondents and perused the records.

5. Learned counsel for the petitioner has vehemently submitted that the impugned order dated 24.07.2010 passed by respondent no. 2 is illegal, arbitrary and unconstitutional being under the teeth of order dated 19.03.2010 passed by this Court in W.P.(S) No. 2339 of 2004. Learned counsel for the petitioner further submits that the petitioner was exonerated from the charges levelled against him and no charge was found to be proved against the petitioner. Further it was submitted that the Disciplinary Authority acted in a most arbitrary manner by not considering the representation of the petitioner on proposed punishment of dismissal from service. Learned counsel for the petitioner further submits that infliction of order of dismissal is disproportionate to the alleged charges.

6. On the other hand, learned counsel for the respondents has dexterously countered the submissions of learned counsel for the petitioner by submitting that impugned order dated 24.07.2010 has been passed in compliance of direction of this Court in W.P.(S) No. 2339 of 2004 and no interference is called for by this Court in the instant case. Learned counsel for the respondents further submits that the punishment of dismissal has been inflicted upon the petitioner on considering the fact that the Disciplinary Authority after considering the entire materials, facts, documents, records, report of the Enquiry Committee, CVC reports etc, has passed the order of punishment of dismissal from services, vide Annexure-2 to the writ application, which is well justified, warranting no interference by this Court.

7. Having heard learned counsel for the respective parties at length and on perusal of the relevant documents on records, I find that the petitioner has not been able to make out a case for interference due to the following facts and reasons:-

(a) The impugned order dated 24.07.2010 has been passed by the disciplinary authority in compliance of direction of this Court vide order dated 19.03.2010 passed in W.P.(S) No. 2339 of 2004 after considering the entire materials, facts, documents, records, report of the Enquiry Committee, CVC reports etc.

(b) The case of the petitioner has been considered and appropriate decision was taken on the question of quantum of punishment commensurate and corresponding to the responsibility, facts, findings and charges of the petitioner and the order of punishment of dismissal from service has been passed, which does not call for any interference for the proved charges since the impugned order of punishment is not shockingly disproportionate.

8. On the cumulative effect of facts and reasons as well as logical sequitur to the discussion made in the foregoing paragraphs, I find that the petitioner has not been able to make out a case for interference by this Court. Accordingly, the writ petition is dismissed being devoid of any merit.