

(2005) 08 JH CK 0033

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5690 of 2001

Rajnath Ram

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 10-08-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 311(2)
Jharkhand Service Code, 2001 — Rule 74

Citation : (2005) 4 JCR 266

Hon'ble Judges : Altamas Kabir, C.J.; R.K. Merathia, J

Bench : Division Bench

Advocate : Krishna Murari, for the Appellant; R.S. Majumdar and A.R. Choudhary for the High Court, for the Respondent

Final Decision : Dismissed

Judgement

Altamas Kabir, C.J.—The petitioner joined the State Judicial Service as a Munsif at Buxar in the year 1975 and in due course, his services were confirmed with effect from 2nd February, 1980. He was duly promoted to the post of Sub-Divisional Judicial Magistrate, Chatra, in the year 1980 and subsequently he was transferred as the Sub-Divisional Judicial Magistrate at Pupari at Sitamarhi on 21st May, 1993. While posted at Sitamarhi as Subdivisional Judicial Magistrate, Pupari, he was served with an adverse Annual Confidential Remark relating to the year 1992 93 while he was posted at Chatra. According to the petitioner, on his representation, the said remarks were expunged by this Court. Subsequently, while the petitioner was posted at Sitamarhi, he was serviced with a notice dated 18th March, 1996 asking clarification from him regarding a provisional bail granted by the petitioner on 19th January, 1994, which was subsequently confirmed on 5th March, 1994. The petitioner filed his clarification on 27th March, 1996, but the same was not accepted by this Court and the petitioner was transferred to Rosera on 24th December, 1996 in his capacity as the Sub-Divisional Judicial Magistrate. While posted at Rosera, the petitioner was served with a letter dated 20th February, 1999, through the District and Sessions Judge,

Samastipur, informing him that punishment of censure had been awarded to him, since his conduct amounted to grave judicial impropriety and such remark was also entered in his Annual Confidential Report. According to the petitioner, he was not given any opportunity of hearing before such an order of censure was passed and his application for supply of the particulars made to the Registrar General of the Patna High Court was also rejected by the Patna High Court. According to the petitioner, the order of punishment meted out to him was totally arbitrary and in contravention of the principles of natural justice and fair play, as secured under Articles 311(2): 14 and 16 of the Constitution of India. A representation made against the adverse remarks against the writ petitioner was turned down by the High Court and the petitioner was rated as a below average officer.

2. On 19th May, 2000, the petitioner was transferred to Jamui and while continuing at Jamui, the State of Bihar was bifurcated and the petitioner was provisionally allotted to the State of Jharkhand and was transferred to Hazaribagh as the Sub-Divisional Judicial Magistrate. While serving in the said capacity, the petitioner was served with a letter dated 17th July, 2001 through the District and Sessions Judge, Hazaribagh, informing him that a decision had been taken to compulsorily retire him from service.

3. Appearing on behalf of the writ petitioner, Mr. Krishna Murari, learned counsel, submitted that in the absence of any definite proof or evidence of impropriety on the part of the petitioner during his service career, except for the censure awarded to him without giving him an opportunity of hearing, the impugned order compulsorily retiring him from service was highly arbitrary and without any factual basis whatsoever. M. Krishna Murari submitted that the writ petitioner had been victimized on account of the provisional bail granted by him, for which he was not even given a chance to explain himself.

4. Appearing for the High Court, Mr. Majumdar, however, submitted that no injustice had been caused to the writ petitioner in invoking the provisions of Rule 74(b)(ii) of the Jharkhand Service Code in the facts and circumstances of the case.

5. On consideration of the submissions made on behalf of the respective parties, we are inclined to agree with the submissions of Mr. Majumdar that since the decision taken by the High Court of Jharkhand to recommend compulsory retirement in the petitioner's case was based on a subjective assessment of the petitioner's ability over all the years, the same does not call for any interference in the writ proceedings.

6. The performance of the writ petitioner as disclosed in the counter affidavit filed on behalf of the High Court gives the Court little room for manoeuvre. The Standing Committee took the stand that the conduct of the petitioner amounted to gross judicial impropriety and recommended that he be censured. In the light of such circumstances, it would not be prudent on our part to interfere with the

decision taken by the High Court to recommend to the State Government that the petitioner be compulsorily retired from service.

7. This writ application is accordingly dismissed, but there will be no order as to costs.

R.K. Merathia, J.

8. I agree.