
(2015) 02 JH CK 0086
In the Jharkhand High Court
Case No : L.P.A. No. 2 of 2014

Ravi Pratap Bajpae

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-02-2015

Acts Referred:

Citation : (2015) 02 JH CK 0086

Hon'ble Judges : Virender Singh, C.J.; Aparesh Kumar Singh, J.

Bench : Division Bench

Advocate : S.N. Pathak, Senior Advocate, for the Appellant; Vaibhav Kumar, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, C.J.—Appellant is the writ petitioner (hereinafter to be referred to as "petitioner" only). A penalty of forfeiture of increment for six months when imposed against him vide order dated 30.04.2012, he knocked at the door of the writ court through the medium of W.P.(S) No. 7832 of 2012 taking the plea that the enquiry conducted against him in terms of Rule 828(c) of Jharkhand Police Manual, which was by way of summary proceeding, whereas, the penalty of forfeiture of increment for six months inflicted upon him, is a major penalty, therefore he was entitled for a copy of enquiry report and a second show cause notice which is a sine qua non for imposing major penalty. The learned Writ Court while testing the case of the petitioner in terms of Rule 828(c) of Jharkhand Police Manual, ultimately held that Rule 828(c) provides that in the case where a penalty of forfeiture is to be imposed, there is no necessity of following the procedure which is prescribed for inflicting major penalty, as such dismissed the writ petition vide impugned judgment/order dated 25.11.2013, aggrieved thereof, petitioner is before us through the medium of instant Letters Patent Appeal in which Mr. Vaibhav Kumar has put in appearance on behalf of the respondent State.

2. We have heard Dr. S.N. Pathak, learned Senior Counsel appearing for the

petitioner, Mr. Kumar appearing for the respondent-State and also we have gone through the Writ Court record.

3. Mr. Pathak, learned Senior Counsel has once again reiterated the case of the petitioner as put forth before the Writ Court. Strengthening his arguments, Mr. Pathak submitted that if one looks at the charge-sheet available on page 22 of memo of appeal, the petitioner had reported at Police Headquarter, Hazaribagh on 29.09.2011 after he was placed under suspension and thereafter he sought permission to report to two different police stations Keredari and Barkatta of District Hazaribagh for handing over the charge. He submitted that pursuant to the permission granted to the petitioner, he went to one of the police stations for handing over the charge and then returned. Thereafter on 15.10.2011, he went to hand over the charge of another police station. Learned Senior counsel submitted that although the petitioner had not been signing the attendance register daily at Police Headquarter, Hazaribagh, but most of the time he was present in the headquarter itself and there is no requirement that during the suspension, an employee is supposed to mark his presence daily. Learned Senior counsel submitted that the absence of the petitioner otherwise has been explained in detail in his reply to the show cause notice which is annexed as Annexure-2 available on page 24 of the memo of appeal. In short, learned Senior Counsel wanted to canvass that without giving due consideration to the explanation tendered by the petitioner for his absence, a penalty of forfeiture of increment for six months has been inflicted upon him which in turn is likely to hamper his career in near future as his promotion is due. Learned Senior counsel submitted that the petitioner is an awardee of many meritorious certificates for his courageous activities as police officer and this stigma will stand in his way.

4. We are not convinced with the submissions advanced by Mr. Pathak. Petitioner is an employee of police department, a disciplined force, whereas it is case of total indiscipline.

5. No doubt, the petitioner sought permission for leaving headquarter for handing over the charge of two police stations where he remained stationed prior to his suspension but what disturbs us more is that after leaving the headquarter for reporting at police station Barkatta, he went to the said police station on 25.10.2011 and thereafter never reported back. Even up to 17.11.2011 he remained absent and it is thereafter only, he was chargesheeted. In between, a letter was sent by the petitioner dated 27.10.2011 seeking an appointment with D.G.P. from Bokaro. This indicates that the petitioner, without bothering to inform his seniors, left for Bokaro. All these aspects, when taken collectively, speaks volumes of the grave indiscipline shown by the petitioner, therefore, he being a police official, does not deserve any sympathy.

6. The case of the petitioner has also been tested by the learned Writ Court within the parameters of Rule 828(c) of Jharkhand Police Manual which provides that in cases where a penalty of forfeiture is decided to be imposed, there is no necessity of following the procedure which is prescribed for inflicting major

penalty. We are also of the view that the penalty imposed upon the petitioner is absolutely justified in the present set of circumstances.

7. Resultantly, we do not find any reason to disturb the well reasoned judgment handed down by the learned Single Judge while dismissing the writ petition.

8. Accordingly, the instant appeal also merits dismissal. Ordered accordingly.