

(2003) 03 JH CK 0038

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4057 of 2002

Ravi Shankar Mishra

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-03-2003

Acts Referred:

Citation : (2003) 3 JCR 733

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : M.M. Banerjee and D.K. Prasad, for the Appellant; Ritu Kumar, for the Respondent

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner has prayed for quashing the letter as contained in Memo No. 148 dated 1.4.2002 issued under the signature of respondent No. 3, Inspector General of Police, Rail Division, Ranchi, whereby the appeal preferred by the petitioner has been rejected and the order of termination of service of the petitioner has been affirmed.

2. Petitioner's case is that in the year 1998 while the petitioner was posted at Jamshedpur as Constable a first information was lodged against him and he was taken into custody for committing offence u/s 414 of the IPC. A departmental proceeding was initiated against the petitioner and "final order was passed terminating the service of the petitioner vide order dated 8.1.2002. In the meantime, criminal case instituted against the petitioner was concluded vide judgment dated 26.2.2002 and he was acquitted in the criminal case. Petitioner thereafter filed a show cause/representation informing the respondents about his acquittal in the criminal case. It is contended that respondents sought for a legal opinion from the State counsel who opined that the petitioner is entitled to be reinstated. When the petitioner was not reinstated he filed detailed representation before respondent No. 3, Inspector General of Police, Rail Division, Ranchi. The said representation was rejected by respondent No. 3 by

the impugned order which is the subject matter of this writ application.

3. Mr. M.M. Banerjee, learned counsel for the petitioner assailed the impugned order as being illegal, arbitrary and mala fide. Learned counsel submitted that when petitioner was acquitted in the criminal case on the ground that the charges levelled against him was not proved then there should not be any reason why petitioner should not be reinstated in service.

4. On the other hand. Mrs. Ritu Kumar, learned counsel for the respondents submitted that service of the petitioner was not terminated on the sole ground of institution of criminal case but full fledged departmental proceeding was started and after following the rules and the procedure, final order of termination of the petitioner from service was passed in the departmental proceeding. In that view, of the matter, petitioner is not entitled to be reinstated in service only because of his acquittal in the criminal case.

5. From perusal of the impugned order of termination, it appears that the order was passed on the sole ground of the criminal case, instituted against the petitioner. It would be interesting to quote the relevant portion of the order.

^^vkjksfir iqfyl 41 jfo "kadj feJk us viuk Li"Vhdj.k fnukad 19-9-2001 dks fn;k gS A vkjksfir us vius vH;kosnu esa bl ckr dk mYys[k fd;k gS fd Hkkxyiqj iqfyl ls bUgsa cd>d gks tkus ds dkj.k bUgsa Qalk fn;k x;k gS A vkjksfir us vius cpko esa cjken pksjh x;s eksVj lk;fdy ds cjkenxh ls lEcU/kr tIrh&lwfp ds xokg dk "kiFk i= dh Nk;k izfr layXu dj Hksth gS A vkjksfir ds fo:) yxk;s vkjksi Hkkxyiqj dksrokyh Fkkuk dk.M la- 446@98 fnukad 14-9-1998 /kkjk 414 ek-n-fo- ls lEcU/kr gS A mDr dk.M esa vkjksfir ds fo:) vkjksi i= lefiZr fd;k tk pqdk gS A vkjksfir us vius cpko es ;g mYysf[kr ugha fd;k gS fd pksjh dh eksVj lk;fdy buds ikl dSlS vk;h \\ bl ifjLFkfr esa tcrd vkjksfir U;k;ky; }kjk jks"keqDr ugha gks tkrs gSa rcrd bUgs lsok esa cus jgus nsus dk dksbZ vkSfpR; ugha gS A**

6. In the aforesaid order, quoted hereinabove, it was clearly mentioned that petitioner is not entitled to continue in service unless he is acquitted in the criminal case. Admittedly, petitioner was acquitted in the criminal case and thereafter he filed representation before the respondents. Representation of the petitioner for reinstating him in service was rejected by the respondents on the ground that petitioner was acquitted only on the ground of benefit of doubt. From perusal of the judgment passed by the Magistrate-1st class, it appears that petitioner was acquitted on the ground that prosecution failed to prove the charges.

7. As noticed above, the order of termination was passed only because criminal case was initiated against the petitioner then in such circumstances when the petitioner was acquitted the respondents were bound to consider the case of the petitioner for his reinstatement. The matter therefore needs reconsideration.

8. For the reason aforesaid this writ application is allowed and the impugned order passed by the respondent No. 3 is set aside. The matter is remittad back to

him for reconsideration and for passing appropriate order in accordance with law within a period of six weeks from the date of receipt/ production of copy of this order.