

(2013) 07 JH CK 0120
In the Jharkhand High Court
Case No : Writ Petition (S) No. 4237 of 2012

Renu Raut

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 01-07-2013

Acts Referred:

Citation : (2013) 07 JH CK 0120

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Manoj Tandon, for the Appellant; A. Allam, for the Respondent

Final Decision : Allowed

Judgement

Narendra Nath Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the order of punishment contained in Memo No. 164 dated 21.2.2012 (Annexure-12) passed by the Deputy Commissioner, Seraikela - Kharsawan, whereby the petitioner's one increment with cumulative effect has been withheld with denial of pay during suspension period. The petitioner has also prayed for quashing the appellate order dated 3.5.2012 (Annexure-14) passed by the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa, whereby the petitioner's appeal has been rejected. According to the petitioner, a charge sheet was served on her containing three articles of charges. The petitioner, thereafter, requested the concerned authority to supply the papers on the basis of which the charges were framed, but the papers were not supplied saying that the same were not available. The petitioner, thereafter, submitted her written explanation categorically denying all the charges. The petitioner was put under suspension by Memo No. 419 dated 23.6.2011. Subsequently, her suspension was revoked by Memo No. 921 dated 12.12.2011. An enquiry officer was appointed to inquire into the charges. The Enquiry Officer without affording reasonable opportunity to the petitioner, concluded the enquiry and submitted a colourable enquiry report on 4.2.2012. On the basis thereof, the disciplinary authority awarded punishment to the petitioner withholding one increment with cumulative effect and holding

her not entitled for anything, during the period of suspension, except the subsistence allowance paid to her. The petitioner, thereafter, preferred departmental appeal before the Divisional Commissioner, Singhbhum (Kolhan) Division, Chaibasa, but the appellate authority summarily rejected the petitioner's appeal.

2. The grievance of the petitioner is that the enquiry officer submitted the enquiry report holding the petitioner guilty and the disciplinary authority awarded the punishment on the said sketchy enquiry report, without application of his mind, though there was no material or evidence on record for substantiating the charges against the petitioner. The petitioner had challenged the said order in the departmental appeal on several grounds, but the appellate authority also without considering those grounds and the facts and materials on record, summarily rejected the petitioner's appeal.

3. Learned counsel for the petitioner submitted that the impugned orders of the disciplinary authority as well as the appellate authority are wholly arbitrary and illegal, as the same are not based on any discussion of facts, materials and evidence on record. Though the petitioner had categorically denied all the charges with the supporting documents, her explanation and the documents have not been considered and discussed either in the order of the disciplinary authority or in the order of the appellate authority. Both the impugned orders are, thus, perverse and unsustainable.

4. The respondents have opposed the writ petition by filing counter affidavit. Though the respondents have supported the impugned orders, the points which have been raised in the writ petition, have not been replied, except saying that the written statement filed by the petitioner did not reveal any substantive explanation against the charges of the alleged irregularity by the petitioner.

5. Having heard learned counsel for the parties and perused the facts and materials on record, I find that though the petitioner had denied the charges against her by making specific statements, supported by the documents, the same have not been properly discussed and considered either by the disciplinary authority or by the appellate authority. No reason has been assigned for discarding the petitioner's defence supported by the documents, in toto. The appellate authority, though, has discussed one document, he has discarded the same only on the ground that the department has given another version. No reason has been assigned for rejecting the petitioner's version supported by the documents and accepting the version of the department.

6. It is the basic requirement of law that any order affecting a person adversely must be well considered and supported by sound reasons.

7. By the impugned orders, the petitioner's one increment with cumulative effect has been withheld and she has been denied payment, except the subsistence allowance, for the suspension period. The penalty of such nature must be supported by the definite finding based on due discussion and consideration of

the relevant facts, materials and evidence on record.

8. The impugned orders have been casually passed, violating the legal principles and are lopsided. The reasons recorded in the impugned orders are not based on cogent materials and evidence on record.

9. For the reasons aforesaid, the impugned orders dated 21.2.2012 (Annexure-12) and dated 3.5.2012 (Annexure-14) are quashed. This writ petition is allowed. However, it is open to the respondents, to pass fresh order in accordance with law, if it is so warranted in view of the facts and material on record.