
(2008) 06 JH CK 0021
In the Jharkhand High Court

Sanika Oraon

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 23-06-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Penal Code, 1860 (IPC) — Section 146, 147, 148, 149, 201

Citation : (2008) 3 JCR 560

Hon'ble Judges : Rakesh Ranjan Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Prasad, J.—This writ application has been filed under Article 226 of the Constitution of India for issuance of an appropriate writ directing the respondents to reinstate the petitioner on the post of Village Chowkidar which he was holding in the year 1980.

2. The case of the petitioner is that he was appointed as Village Chowkidar in Village Daranda-Tetra of Bit No. 4/4 under Police Station Lapung, District Ranchi in the year 1971 and discharged his duty to the full satisfaction of the authorities until 1980. When a case (G.R. No. 554 of 1980) was registered against him u/s 147/148/149/302/201 of Indian Penal Code, he was taken into custody. However, after being released on bail, when the petitioner came to join his duty, he was informed that he has been dismissed from service. Upon it, the petitioner met with several authorities and tried to convince them that he has been falsely implicated and as such they assured that as soon as he is acquitted, he will be reinstated on his earlier post. However, the petitioner was convicted on being tried in Sessions Trial No. 94 of 1982 under Sections 302/146/201 of Indian Penal Code and was sentenced to undergo life imprisonment. The said order on being challenged by the petitioner before this Court in Cr. Appeal No. 153 of 1990(R) was set aside and the petitioner Was acquitted vide order dated 20.3.2006. Thereupon, the petitioner filed an application before the Senior

Superintendent of Police, Ranchi on 3.4.2006 making prayer for his reinstatement, but when no order was passed, the petitioner approached the Deputy Commissioner, Ranchi and then the other day, the office of Deputy Commissioner, Ranchi gave him a form and asked him to hand over to the Circle Officer so that the Circle Officer may furnish necessary information and accordingly the said form was given to the Circle Officer, Lapung, but no order was passed regarding reinstatement of the petitioner on the post of Chowkidar. Therefore, the petitioner has come before this Court seeking reinstatement on the post of Chowkidar.

3. A counter affidavit has been filed on behalf of the respondents-State wherein it has been stated that the petitioner was working as Chowkidar in Bit No. 4/4 within Lapung Police Station, but he was holding the post which was temporary and honorarium and when the petitioner was taken into custody in connection with murder case, his service was terminated. In course of time, the post of Chowkidar, being Grade-IV, was made permanent w.e.f. 1st January, 1990 and in the said post one Pancham Singh was appointed and when he died, his dependant has put forth claim of being appointed as Chowkidar on the said post and, therefore, the petitioner under these situations, does not have any right over the said post.

4. Upon it, learned Counsel for the petitioner submits that when the petitioner was acquitted of the charges, he has got every right of being appointed on the said post as Chowkidar which he was holding before being taken into custody, but the authorities did not reinstate him and hence the action of the authorities is quite illegal and arbitrary.

5. Having heard learned Counsel for the parties, it does appear that the petitioner was holding post of Chowkidar and was getting honorarium, though the said post in due course of time was made permanent in the year 1990 and as such the petitioner cannot be said to have been holding a civil post. In other words, the petitioner was holding post on officiating basis which itself was of a transitory, in nature which is impliedly terminable at any time and as such the petitioner does not have any right over the said post.

6. In that view of the matter, the petitioner is not entitled to any relief. Accordingly, this writ-application stands dismissed.