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**(2007) 08 JH CK 0054**  
**In the Jharkhand High Court**

Satyapal

APPELLANT

Vs

State of Bihar (now Jharkhand) and Others

RESPONDENT

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**Date of Decision :** 10-08-2007

**Acts Referred:**

**Citation :** (2007) 4 JCR 134

**Hon'ble Judges :** R.K. Merathia, J

**Bench :** Single Bench

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### Judgement

Ramesh Kumar Merathia, J.—In this writ petition, the petitioner has prayed for quashing the charge-sheet vide letter No. 742/97 and the entire departmental proceeding vide No. 27/97 and the order of dismissal vide No. 37/C dated 31.1.1998 (Annexure8), the order of the appellate authority vide letter No. 803/GS dated 20.7.1998 (Annexure-9/1) and also the order dated 21.4.1999 (Annexure-11) passed by the Director General of Police rejecting the memorial.

2. Mr. P.K. Prasad, learned Counsel appearing for the petitioner submitted that the entire departmental proceeding has been conducted in violation of the principles of natural justice.

3. It appears that the departmental proceeding was initiated against the petitioner and one Safruddin Ansari on the charges that on 3.9.1997 while they were on duty with A.S.I. Ram Parvesh Paswan, when the train stopped on the station, the petitioner and Safruddin Ansari did not allow the passengers to board the train and allowed the vegetable vendors to load their goods which shows their doubtful and bad conduct. It was further alleged that they did not appear before the senior officer when called and used abusive language. The enquiry officer submitted his report a copy whereof was supplied to the petitioner. The petitioner filed his show cause. The disciplinary authority agreeing with the enquiry report passed the order of dismissal. The appellate authority affirmed the said order. The, memorial filed by the petitioner was also rejected.

4. Mr. P.K. Prasad submitted that the enquiry was held at Dhanbad and the

witnesses examined there were cross-examined but the enquiry officer went to Garhwa on 30.10.1997 and examined Sub-Inspector Prabhat Kumar Srivastava and A.S.I. Ram Pravesh Paswan behind the back of the petitioner. The petitioner was not given opportunity to cross-examine them. He further submitted that all the witnesses are hearsay witnesses except A.S.I. Ram Pravesh Paswan and, therefore, it was necessary to cross-examine him in defence. He further submitted that even opportunity to lead defence evidence was not given. He further submitted that there was no charge of any vested interest but the order of punishment has been passed on the said charge also. He lastly submitted that Safruddin Ansari was also dismissed but on his memorial, the punishment was modified to the extent of reinstating him on the initial pay scale.

5. It is not necessary to examine all the contentions raised by Mr. Prasad as I am satisfied that the petitioner was not given opportunity to cross-examine Sub Inspector Prabhat Kumar Srivastava and A.S.I. Ram Pravesh Paswan. In the counter-affidavit also, this position is not denied rather admitted. Only it is said that the statements of the examination of the witnesses were furnished to the petitioner about which the petitioner mentioned in his explanation. It further appears that A.S.I. Ram Pravesh Paswan was important witness and as the petitioner was not given opportunity to cross-examine him, the enquiry report holding him guilty and the consequential orders of punishment cannot be sustained.

6. In the circumstances, Annexures-8, 9/1 and 11 are set aside and the matter is remitted to the Disciplinary Authority-Superintendent of Police, Rail, Dhanbad (respondent No. 4) with liberty to initiate a fresh enquiry, if he so desires. If he chooses to initiate proceeding, the same must be completed as early as possible and preferably within a period of six months from the date of receipt/production of a copy of this order. However, if the petitioner agrees for a similar order passed in the case of Safruddin Ansari on his memorial; and for waiving his back wages, and if the disciplinary authority considers that the same will be sufficient punishment, he may pass order for the petitioner's reinstatement with similar punishment awarded to Safruddin Ansari and without back wages.

7. With these observations and directions, this writ petition is disposed of. However, no costs.