
(2003) 08 JH CK 0065

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5262 of 2002

Shiv Sahay Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 26-08-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 681

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Jitendra Nath, for the Appellant; Krishna Shankar, JC to AG, for the Respondent

Final Decision : Dismissed

Judgement

Tapen Sen, J.—Heard Mr. Jitendra Nath, learned counsel for the petitioner and Mr. Krishna Shankar, JC to learned Advocate General.

2. The petitioner in the instant case has prayed for quashing the order of punishment dated 24.9.1999 by which he has been inflicted with the punishment of forfeiture of increments for six months which is equivalent to one black mark passed in Departmental proceeding. This apparently has been passed pursuant to Departmental proceeding No. 11/99 conducted by the Commandant BMP 12 Tatisilve, Ranchi now redesignated as Jharkhand Armed Police-11, Tatisilve, Ranchi.

3. According to the police, he was employed as Driver and on 2.5.1999 he was directed by the Officer Incharge of the Motor Transport to carry the dead body of another driver who had died. In spite of that order, the petitioner disobeyed and left the premises. Thereafter, charges were framed and departmental proceedings initiated in which the petitioner was given adequate opportunity but he was ultimately found guilty. Finally, the order was passed.

4. The punishment, in the opinion of this Court, is not shockingly

disproportionate. After all the petitioner was a member of a disciplined Force where discipline is the key word which must be observed. The petitioner not having obeyed, the respondents rightly proceeded against him and the punishment that has been imposed upon him is the minimum that could have been done. It is neither shocking nor disproportionate.

5. For the foregoing reasons, therefore, this Court is not inclined to interfere with this writ application. It is accordingly dismissed.

6. After the aforementioned Order had been passed, Mr. Jitendra Nath, learned counsel for the petitioner prayed that the statutory appeal that the petitioner had filed on 16.3.2000 should be ordered to be disposed off. At paragraph 15 of the writ petition it has been stated as thus :-- "15. That the petitioner preferred statutory appeal on 16.3.2000 to the DIG, JAP Ranchi but the same has not been disposed of so far though 2 years have lapsed,"

7. This paragraph has been replied by the respondents at paragraph 14 wherein they have stated that the petitioner did not file any appeal at all and no appeal is lying pending before the DIG. They have categorically stated that the petitioner has not yet filed any appeal.

8. This Court does not find any reason to disbelieve the aforementioned statements of the respondents because in the affidavit portion of the writ application nothing has been stated as to whether the said paragraph 15 is true to knowledge or true of information derived from the records. In fact the appropriate columns are totally blank. Additionally, paragraph 15 has not been supported by bringing on record copy of any such appeal.

9. In that view of the matter, this Court draws an adverse inference against the petitioner and holds that paragraph 15 was inserted only for snatching an order so that the petitioner may be in a position to either file an appeal or representation knowing fully well that the period to do so has already lapsed, the order of punishment having been passed on 24.9.1999.

10. Consequently, this Court holds that there is no merit in this writ application. It is accordingly dismissed. There shall however be no order as to costs.