
(2011) 07 JH CK 0024

In the Jharkhand High Court

Case No : Writ Petition (S) No. 6054 of 2005

Sidheshwar Singh and Another

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 11-07-2011

Acts Referred:

Arms Act, 1959 — Section 27

Penal Code, 1860 (IPC) — Section 109, 148, 149, 201, 302

Citation : (2011) 4 JCR 120

Hon'ble Judges : Poonam Srtvastava, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mrs. Poonam Srtvastava, J.—By the Court.--Heard counsel for the petitioners and counsel appearing on behalf of the State. Counter and rejoinder has been exchanged between the parties and the writ petition is heard finally on behalf of the two petitioners, namely, Sidheshwar Singh S/o Late Sakal Singh and Rampukar Singh S/o Late Ramsurat Singh.

2. The petitioners were dismissed from the police department on 24.1.1992 while they were discharging their duties as Assistant Sub-Inspector. The first information report was registered against them under Sections 148/149/302 of the Indian Penal Code and Section 27 of the Arms Act. The trial commenced and in the sessions trial, the accused were granted a clear acquittal holding that the State was not able to establish and substantiate the allegations of the first information report. The concluding paragraph of the judgment dated 13.5.2004 passed by 7th Addl. Sessions Judge, Gaya in S.T. No. 117/2003 and 269/2003 held that the husband of the first Informant was, no doubt, murdered but there is not a single witness who has come forward to support the prosecution story aiid, therefore, the State has miserably failed to prove its case against the accused persons.

3. It is brought to my notice that this was not the acquittal on the basis of

"benefit of doubt" but it is a case of clear acquittal for want of sufficient evidence and, therefore, the petitioners have been honourably granted verdict of acquittal under Sections 302/149, 109/149 and 201 of the Indian Penal Code and also u/s 27 of the Arms Act. Simultaneously, the departmental proceeding had also commenced. The set of evidence was identical and the Enquiry Officer proceeded with the regular departmental proceedings. Subsequent to acquitted in the criminal trial, the Enquiry Officer also exonerated the petitioners, along with other similarly placed police officials, as the evidence led in the criminal case as well as in the domestic enquiry was one and same and since the criminal Court had acquitted the delinquent on those very evidence;, therefore, several other employees of the police department, namely, Ram Pravesh Pandit & Ors. in C.W.J.C. No. 6329 of 1995 and Satya Narayan Singh & Ors. in C.W.J.C. No. 6330 of 1995 were reinstated setting aside the order of the Disciplinary Authority. It was confirmed by the Division Bench by a judgment dated 29.8.2005. The said decision in the connected two writ petitions is reported in 2005 (4) JLJR 164. The petitioners were directed for their reinstatement in the writ petitions on the basis of several decisions of the Apex Court. The leading case is Captain M. Paul Anthony v. Bharat Gold Mines Ltd., reported in (1999) 3 SCC 769 followed in several other decisions in the case of Management of Krishnakali Tea Estate Vs. Akhil Bharatiya Chah Mazdoor Sangh and Another, and also the case of Manager, R.B.I., Bangalore Vs. S. Mani and Others, .

4. The decision in the case of Ram Pravesh Pandit and Satya Narayan Singh was also challenged in L.P.A. No. 656 of 2005 and L.P.A. No. 657 of 2005, which stands dismissed by the Division Bench. The decision of the two L.P.A. has also been brought to my notice. It is thus evident that after the writ petition of the aforesaid employees was allowed, they have been reinstated in service and they are working though 50% of the salary for the period was awarded to them.

5. In my view, the petitioners in the instant writ petition are also entitled for the same benefit, as they have been given acquittal in the criminal case as well as the Enquiry Officer has exonerated them. No doubt, the Disciplinary Authority disagreed with the findings of the Enquiry Officer and dismissed the petitioners and they are out of service since a long time. The petitioners are also entitled for a similar treatment, as in the case of other police officials who were granted acquittal, along with the present petitioners in S.T. No. 117/2003 and 269/2003.

6. In the facts and circumstances, the writ petition is allowed. The petitioners are directed to be reinstated in service with only 50% of the salary for the period. The dismissal order dated 24.1.1992 (Annexure-3) as well as the appellate order dated 21.8.1994 (Annexure-4) and also the revisional order dated 22.3.2005 (Annexure-7) are hereby quashed.

7. With the aforesaid observations and directions, this writ petition is disposed of.