

(2004) 04 JH CK 0027
In the Jharkhand High Court
Case No : Writ Petition (S) No. 821 of 2002

Sita Ram Sharma

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 JCR 166

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : Ajit Kumar, for the Appellant; I. Sen Choudhary, SC-III, for the Respondent

Judgement

Amareshwar Sahay, J.

I.A. No. 111 of 2004 :

1. Heard the parties on the I.A. No. 111 of 2004.
2. The application for amendment is allowed. Let the amendment application be treated as part of the main writ application. The prayer of the respondents to award costs for allowing the amendment, is refused.

W.P. (S) No. 821 of 2002 :

3. Heard.
4. The petitioner was proceeded departmentally and by order as contained in Annexure-7 dated 2.9.2000 contained in Memo. No. 840, the Deputy Commissioner, Hazaribagh being the disciplinary authority, imposed punishment, by which the petitioner was reverted to the original post and scale. Thereafter the petitioner filed an appeal before the Commissioner, North Chotanagpur Division, Hazaribagh who vide his order dated 9.10.2001 contained in Annexure-9, dismissed the appeal of the petitioner.

5. The main ground for challenge of the order as contained in Annexures 7 and 9 are that the disciplinary authority neither issued any notice to show cause to the petitioner after the enquiry report was submitted by the Enquiry Officer, nor the copy of the Enquiry Report was supplied to him, therefore, the order as contained in Annexure-7 is absolutely bad in law and is against the principles of natural justice. Nowhere in the counter-affidavit filed by the State, it has been stated that the copy of the Enquiry Report was supplied to the petitioner nor it has been stated that notice to show cause was issued to him after the submission, of the Enquiry Report and before passing the order imposing punishment as contained in Annexure-7 by the Deputy Commissioner. The appellate authority has also not considered this aspect of the matter.

6. In view of the above facts, the order as contained in Annexures 7 and 9 cannot be sustained. Accordingly, the order as contained in Annexure-7 passed by the disciplinary authority i.e., the Deputy Commissioner, Hazaribagh and the order contained in Annexure-9 passed by the appellate authority i.e., the Commissioner, North Chotanagpur Division, Ranchi are hereby quashed.

7. It is made clear that it is open for the Disciplinary authority to pass a fresh order in accordance with law after serving a copy of the Enquiry Report to the petitioner and after giving a chance to the petitioner to file show cause.

8. With the above observation and direction this application stands disposed of. Appeal disposed of.