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Dev Baldev Tiwari Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Feb-20-2013

Appellant : Dev Baldev Tiwari

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. A.K.Rawat

Judgement :

1 W.P.No.2422/2013 W.P.No.2422/2013 20.02.2013 Shri A.K.Rawat, learned counsel for the petitioner.

Heard.

Order dated 22.12.2012 and 28.01.2013 are being assailed vide this petition.

Vide order dated 22.12.2012 Human Rights Commission in a proceeding initiated under Chapter 4 of Protection of Human Rights Act, 1993 held the petitioner guilty of violating of Human Rights of Sarvashri Lalle, Jamna, Ramnarayan, Gauri, Tulsi and Kishore of being unnecessary apprehended in a lock up and accordingly recommended payment of compensation of Rs.20,000/- each whereas by order dated 28.01.2003 the recommendations of Human Rights Commission has been implemented and a recovery of Rs.20,000/- each has been effected from the petitioner.

The proceedings before Human Rights Commission has its genesis in the complaints lodged 2 W.P.No.2422/2013 by the complainants regarding the incident dated 14.03.2010, whereon it was alleged that, the complainants were wrongly apprehended by the petitioners and were beaten in the lock up.

The complain besides leading to initiation of a proceedings under the Protection of Human Rights, Act 1993 also led to initiation of a Departmental Enquiry by the department culminating into an order of punishment dated 30.6.2012, whereby the petitioners were inflicted with a penalty of stoppage of one increment for one year with non-cumulative effect.

Whereas, the complainant before Human Rights Commission under the Act of 1993 culminated into impugned recommendation dated 5.1.2013 whereby the commission recomended-

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The Commission while arriving at a conclusion of the petitioners being guilty of violating human rights, besides relying on the evidence brought before it, also placed reliance on the independent enquiry conducted by the Sub-Divisional Officer (Police).Niwari, who in his enquiry has held the petitioners guilty of committing excesses on the complainant.

Though it is urged on behalf of the petitioner that the petitioners cannot be subjected to dual penalty for the same offence.

As the petitioneRs.besides being inflicted with a punishment of stoppage of one increment for one year with non-cumulative 4 W.P.No.2422/2013 effect by the department are also being subjected to pay compensation of Rs.20,000/- to the complainants.

In the considered opinion of this Court so far as infliction of penalty in a departmental enquiry; is concerned the same was because of the conduct which was unbecoming of a police official and being a misconduct under the conduct Rules, the petitioner were proceeded against under the Police Regulation.

Whereas the compensation is in lieu of violation of human rights of the complainants.

The two punishments being for distinct act, one for misconduct and another for violating Human Rights cannot be termed as dual punishment, therefore, the contention to that effect by petitioner stands rejected.

In respect of the contention that the Human Rights Commission ha failed to objectively consider the defence put forth on behalf of the petitioner it is urged that the finding arrived at by the Commission besides being on the basis of evidence, oral and documentary, brought before, it has also relied upon the enquiry conducted by the Sub-Divisional Officer 5 W.P.No.2422/2013 (Police) Niwari, which was an enquiry independent to that conducted by the Commission.

No material is commended at to demolish the finding recorded by the Commission.

In view whereof, no interference is caused.

In the result, petition fails and is hereby dismissed.

No costs.

(SANJAY YADAV) JUDGE Loretta

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