

Ramu Kumar Vs. State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Jan-10-2017

Appellant : Ramu Kumar

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 5140 of 2014
----- Ramu Kumar, son of Sri Ajay Kumar Singh, resident of Village: Kamgarpur,
P.O: Kamgarpur, P.S. Hussainabad, Dist: Palamau, Jharkhand. ... Petitioner
Versus 1.State of Jharkhand. 2.Director General-cum-Inspector General of Police,
Jharkhand, Ranchi, Police Headquarter, P.O & P.S.: Dhurwa, Dist: Ranchi.
3.Deputy Inspector General of Police, North Chhotanagpur Region, Hazaribagh,
Jharkhand, P.O. & P.S.: Hazaribagh, Dist: Hazaribagh, Jharkhand.
4.Superintendent of Police, Chatra, P.O: Chatra, P.S. Chatra, District: Chatra,
Jharkhand. Respondents ----- CORAM: HONBLE MR. JUSTICE PRAMATH
PATNAIK ----- For the Petitioner : Mr. Diwakar Upadhyay, Advocate. (change) For
the Respondents : Mr. Chanchal Jain, J.C to A.A.G ----- C.A.V on 15.12.2016
Delivered on 10/01/2017 Per Pramath Patnaik, J.: In the accompanied writ
application, the petitioner has inter alia prayed for quashing order dated
26.08.2013, whereby the petitioner has been dismissed from services and further
for quashing appellate order dated 28.07.2014, by which, the appeal preferred by
the petitioner against the impugned order of dismissal has been rejected.

2. The facts, in brief, are that the petitioner was appointed on the post of Constable in the district of Chatra in the year 2012. However, on verification of the residential certificate submitted by the petitioner, the same was found forged and fabricated. Basing on this allegation, a departmental proceeding was initiated, which resulted in passing of impugned order of dismissal from services. 2 3. Learned counsel for the petitioner submitted since there was dispute between the Halka Karamchari and the family of the petitioner, he submitted wrong report against the petitioner to the effect that no such person resides on the aforesaid address, and on the basis of said report, the petitioner was dismissed from services. Learned counsel for the petitioner further submitted that the petitioner being aggrieved by the order passed by the disciplinary authority preferred appeal, where the appellate authority ordered the Sub-Divisional Officer to verify the certificate submitted by the petitioner, who on verification, vide letter dated 07.07.2014 submitted that the residential certificate no. 1923 dated 31.07.2013 is authentic and genuine. But without considering the report sent by SDO, Hussainabad, and averments made in appeal, his appeal was rejected. Learned counsel for the petitioner further submitted that since the impugned order is stigmatic one, full-dressed enquiry was required to be done before dispensing with the services of the petitioner, absence thereof renders the impugned a nullity in the eye of law. In support of his argument, learned counsel for the petitioner referred to the judgment rendered in the case of State Bank of India & Others Vs. Palak Modi and Another as reported in (2013) 3 SCC607 4. As against this, learned counsel for the respondents submitted that in the appointment letter issued to the petitioner and other candidates itself it is mentioned that if any infirmity or irregularity is found during the course of verification of certificate, they would be terminated from services without serving show cause notice. After appointment of the petitioner, the residential 3 certificate no. 1571 dated 30.01.2010 was sent for verification, which on verification was found forged as the same was not issued from the Office of Anchal Adhikari. Basing on these allegation, the petitioner was served with show cause reply, to which the petitioner replied annexing another residential certificate no. 6373 without any date, which was again sent for verification and Anchal Adhikari in its letter dated 15.06.2013 stated that certificate in question has been issued in the name of another person.

Learned counsel for the respondents further submitted though in appeal, the third residential certificate no 3831 dated 25.07.2013 was submitted by the petitioner, which on verification was found genuine but the same was of the year 2013 and the vacancy was of the year 2010 and he was appointed on 30.07.2012, hence, this will not come to rescue the petitioner. It has been submitted that since the petitioner committed forgery in securing employment by submitting false and fabricated certificate, hence, the petitioner was dismissed from services under Rule 668 (Ka) of the Police Manual, which never warrants interference by this Court.

5. After bestowing my anxious consideration to submissions advanced by learned counsel for the parties and on close scrutiny of the materials available on record, it came to surface that though the residential certificate submitted by the petitioner at the time of applying the vacancy and after issuance of show cause notice, which were issued from the office of Anchal Adhikari was found forged but in appeal, the appellate authority itself knowing fully well that the third residential certificate issued by the S.D.O., Hussainabad is of the year 2013 and that is issued after 4 publication of advertisement and after appointment of the petitioner, sent the same for verification, which was found genuine and same has not been challenged before any other higher authority or disbelieved by the respondents themselves. However, after coming of the report by the S.D.O. Hussainabad, the appellate authority rejected the appeal on the ground that the third residential certificate is of year 2013, which has been issued after issuance of vacancy and after appointment of the petitioner, besides the ground of forged certificate submitted by the petitioner. From the discussions made herein above, there is firm reason to believe that the petitioner is local residence of Village: Kamgarpur, P.O: Kamgarpur, P.S. Hussainabad, Dist: Palamau, but, the allegation of submission of forge certificate is staring against him.

6. Furthermore, from the discussions made herein above, the punishment appears to be grossly disproportionate to the alleged misconduct, hence, the impugned orders, being hit by doctrine of proportionality, and the same are liable to be quashed and set aside. View of this Court gets fortified by the laws laid down by Honble Apex Court in the case of Chairman-cum-Managing Director, Coal India

Limited & Anr. Vs. Mukul Kumar Choudhuri & Ors as reported in (2009) 15 SCC620 in particular paragraph 19, which is quoted herein below: 19. The doctrine of proportionality is, thus, well-recognised concept of judicial review in our jurisprudence. What is otherwise within the discretionary domain and sole power of the decision-maker to quantify punishment once charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review.

7. In totality of the facts and circumstances of the case, the impugned order of dismissal dated 26.08.2013 and appellate order dated 28.07.2014 are hereby quashed and set aside and the matter is remitted back to the appellate authority to consider the case of the petitioner afresh taking into consideration the observations made by this Court in the preceding paragraphs and pass appropriate order on the quantum of punishment.

8. With the aforesaid observations and directions, the writ petition stands disposed of. (Pramath Patnaik, J.) Alankar/-

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