

Ram Kumar Ram Vs. State of Jharkhand

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Court : Jharkhand

Decided On : Mar-01-2017

Appellant : Ram Kumar Ram

Respondent : State of Jharkhand

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 1205 of 2013
Ram Kumar Ram son of Late Banarsi Ram, resident of village Deogan, P.O.
Chaparwar, P.S. Chaparwar, District Palamau (Jharkhand) Petitioner Versus
1. State of Jharkhand 2. Director General of Police, Government of Jharkhand,
Ranchi, office at Project Building, Dhurwa, Ranchi-4, P.O. & P.S. Dhurwa, District
Ranchi.

3. Inspector General of Police, P.O. & P.S- Ranchi, District-Ranchi.

4. Deputy Inspector General of Police, Jharkhand Armed Police (JAP)-6, Ranchi,
P.O. & P.S- Ranchi, District-Ranchi.

5. Commandant, Jharkhand Armed Police (JAP)-6, Jamshedpur, P.O. & P.S-
Jamshedpur, District-East Singhbhum. . . Respondents ----- CORAM: HONBLE
MR. JUSTICE PRAMATH PATNAIK ----- For the Petitioner : Mr. Santosh
Kumar Tiwari, Adv. For the Respondents : Mr. Sambit Sahay, J.C. to A.A.G.
9/Dated:

01. t March, 2017 Per Pramath Patnaik, J.:

1. In the instant writ application, the petitioner has inter alia prayed for quashing of letter dated 21.08.2008 passed by respondent no.5 pertaining to dismissal from services.

2. Sans details, the facts, as stated in the writ application, is that the petitioner while continuing his service on the post of Constable at Gola Police Station, District Ramgarh, Jharkhand Armed Police-6, an allegation has been made against him that he was disturbing the police camp in an inebriated condition. In pursuance to the charges levelled against the petitioner, the petitioner was suspended by the respondent vide order dated 19.06.2008. Thereafter, a departmental proceeding has been initiated against the petitioner. The Charges levelled against the petitioner has been enquired into by the conducting officer and on the basis of the evidences collected during enquiry, the enquiry officer has found the allegations against the petitioner to have been proved. Thereafter, the copy of the enquiry report was supplied to the petitioner for filing reply to prove his innocence. The disciplinary authority basing on the findings of the enquiry report has been pleased to pass the impugned order dated 21.08.2008. Being aggrieved by the order passed by the disciplinary authority, the writ application has been 2 filed by the petitioner invoking extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for redressal of the grievances.

3. Learned counsel for the petitioner has submitted with vehemence that the disciplinary authority without considering the evidences of Witness Nos.4, 5, 6 and 8 in a very cavalier fashion has established the guilt of the petitioner and on that score, the impugned order of punishment is liable to be set aside. Learned counsel for the petitioner further submits that the factum of petitioner being under intoxication has not been proved by the pathological evidence so in absence of any pathological evidence it cannot be conclusively proved that the petitioner was in intoxicated condition. In this regard, learned counsel for the petitioner has brought to the notice of this Court the decision of the Honble Apex Court reported in (2010) 15 SCC399(Munna Lal vs. Union of India & Ors.) wherein the Honble Apex Court has been pleased to hold that even though there is element of doubt about the presence of alcohol and a mild smell of alcohol without medical check up, charge could not be satisfactorily proved.

4. Per contra, a counter affidavit has been filed on behalf of the respondents repelling the averments made in the writ application wherein it has inter alia stated that the petitioner is a habitual drinker. He has been found guilty for consuming alcohol while he was on duty on several occasions. Earlier he was suspended due to intoxication of taking wine in his duty hours and he was warned not to come duty in intoxication position. But he did not pay attention of the higher authority. It has further been submitted that while the petitioner was on duty in police station within Ramgarh district along with Eco Company, on 08.06.2008 he consumed alcohol and due to full intoxication he shouted loudly and abused in consequence whereof, the atmosphere became tensed causing breach of peace in the police camp. Petitioner was suspended and enquiry was made against him. Enquiry officer submitted his report against the petitioner and he was found guilty based on the enquiry report, evidence of the eye witnesses and medical report. In the counter affidavit, the copy of the medical report has been annexed as Annexure-A and the enquiry report has been annexed as Annexure-B. In the counter affidavit it has been submitted that the order passed by the disciplinary authority has been duly confirmed by the appellate authority as evident from Annexure-C to the counter affidavit. 3 5. Learned J.C. to A.A.G appearing for the respondents has reiterated his submissions made in the counter affidavit. Learned counsel for the State has assiduously submitted that in the instant case, there is no infraction of statutory provisions or breach of principles of natural justice, so far as initiation of departmental proceeding till its culmination nor the departmental proceeding suffers from lack of evidence. Therefore, the impugned order having affirmed by the appellate authority does not warrant interference by this Court under Article 226 of the Constitution of India.

6. Having heard learned counsels at bar and on perusal of the records, I am of the considered view that the petitioner has not been able to make out a case for interference due to the following facts, reasons and judicial pronouncements: (I) In the instant case, the charges pertains to consuming of alcohol while the petitioner was on duty in police station within Ramgarh district, thereby creating tense situation and causing breach of peace. From the enquiry report it transpires that the allegations levelled against the petitioner has been proved by some of witnesses but though some of the witnesses have not directly supported

allegation/charges levelled against the petitioner but on overall perusal of the enquiry report it would be crystal clear that that the petitioner has been found guilty of the charges. The disciplinary authority basing on the findings recorded by the enquiry report has passed the impugned order of punishment which has been affirmed by the appellate authority. Since there is no procedural irregularity in the departmental proceeding, considering the gravity of charges coupled with proved misconduct, there is no scope for interference by this Court under writ jurisdiction.

(II) The case in hand from the record it appears that there has been no violation of principles of natural justice nor there has been any procedural irregularities nor the case of the petitioner is based on no evidence, so there is absolutely no ground to interfere in the impugned order of punishment. (III) In view of the seriousness of the allegations and misconduct committed by the petitioner, and the concurrent finding given by the disciplinary as well as the appellate authority, this Court by invoking extraordinary jurisdiction under Article 226 of the Constitution of India cannot interfere in the impugned order. 4 The view of this Court gets fortified by the decision of the Honble Apex Court reported in the case of State of Uttar Pradesh and Another Vs. Man Mohan Nath Sinha & Another as reported in (2009) 8 SCC310 specially at paragraph 15, which is quoted herein below:

15. The legal position is well settled that the power of judicial review is not directed against the decision but is confined to the decision-making process. The court does not sit in judgment on merits of the decision. It is not open to the High Court to reappreciate and reappraise the evidence led before the inquiry officer and examine the findings recorded by the inquiry officer as a court of appeal and reach its own conclusions (IV) Considering the submission of the learned counsel for the petitioner, the decision cited by him is of no assistance because of the fact that the medical report, as has been annexed as Annexure-A to the counter affidavit proves the charge of being under influence of liquor.

7. In view of the reasons stated in the foregoing paragraphs and as a logical sequitur to the factual and legal position, the impugned order of punishment dated 21.08.2008 passed by the disciplinary authority does not warrant any interference by this Court.

8. Accordingly, the writ petition sans merit is dismissed. (Pramath Patnaik, J.)
Saket/-

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