

Hameshwar Marandi Vs. State of Bihar and ors.

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Court : Jharkhand

Decided On : Feb-05-2004

Reported in : [2004(1)JCR520(Jhr)]

Judge : Amareshwar Sahay, J.

Acts : Service Law; [Constitution of India](#) - Article 226

Appeal No. : CWJC No. 2766 of 1997(R)

Appellant : Hameshwar Marandi

Respondent : State of Bihar and ors.

Advocate for Def. : R.R. Mishra, GP II

Advocate for Pet/Ap. : Prabhash Kumar, Adv.

Disposition : Application dismissed

Judgement :

Amareshwar Sahay, J.

1. The petitioner, a dismissed Hawaldar of Bihar Police has challenged the order as contained in Annexure-8 to the writ application, whereby the Superintendent of Police, Hazaribagh, being the disciplinary authority of the petitioner, passed an order on 12.1.1993, dismissing the petitioner from service on the basis of the

findings of the Enquiry Officer, as contained in Annexure 7 to the writ application, wherein the charges against the petitioner were found to be proved. The petitioner has also challenged the order, as contained in Annexure 9 to the writ application dated 29.11.1995, passed by the Deputy Inspector General of Police, North Chotanagpur Region, Hazaribagh, who dismissed the appeal filed by the petitioner being the appellate authority.

2. The petitioner holding the post of Hawaldar (sic) and was in-charge of Police picket of four armed Police personnel at Dudhmania Police picket within Bishnugarh Police Station in the district of Hazaribagh on 16.9.1992. On that date, some miscreants attacked the Police Guard room at Doodhmania Police picket and after injuring the police personnel, present there, including the petitioner looted away arms and ammunitions Police uniforms etc. from the Police Guard Room, for which a case being Bishnugarh PS Case No. 72 of 1992, was registered under Section 395, IPC. At the time of occurrence, only two constables and one Hawaldar were only available at the said Police picket and there was no constable on Santry duty. Two other Police constables who were also posted there were unauthorisedly absent. The petitioner who was in-charge of the Police picket was sleeping in the Guard room in ganji and lungi, one Constable Arun Kumar Tiwary was busy in cutting vegetables and the other Constable Nand Kishore Kuwar was standing outside the Guard room in ganji and lungi and all of them were negligent in discharge of their duties.

3. The petitioner was proceeded departmentally in which it was established that there was serious dereliction in duty on the part of the petitioner, who was in-charge of the Police picket and because of his lapses in discharge of his duties, the said occurrence of looting arms and ammunitions and also the Police uniform took place from the Guard room by the miscreants.

4. The disciplinary authority i.e. the Superintendent of Police, Hazaribagh by order as contained in Annexure 8 dated 12.11.1993 after considering the report of the Enquiry Officer and after considering the relevant materials, ordered for dismissal of the petitioner from service. The petitioner thereafter preferred an appeal against the said order of the Superintendent of Police. The appellate authority by order as

contained in Annexure 9 concurred with the findings of the disciplinary authority and dismissed the appeal.

5. Learned counsel appearing for the petitioner has submitted that the finding of the Enquiry Officer and consequently the order of dismissal from service passed against the petitioner is absolutely bad in law, as the points raised by him in his written statement were not at all considered. The points which were raised in his written statement have been enumerated in Paragraph 23 of the present writ application.

6. I have carefully gone through the report of the Enquiry Officer, which has been annexed as Annexure 7/1 to the writ application as also the order passed by the Superintendent of Police, as contained in Annexure 8 and the order of the appellate authority as contained in Annexure 9, and I find that the points enumerated in Paragraph 23 of the writ application, which according to him were not considered by the authorities concerned, have no legs to stand in view of the findings on facts arrived at by the authorities concerned. Rather on the contrary, I find that the authorities concerned have very carefully considered the relevant materials i.e., the case of the petitioner, his defence, the statement of the witnesses examined during enquiry and then have come to a definite finding of fact that the charges against the petitioner were found to be established.

7. I do not find any perversity or illegality in the impugned orders and, therefore, I see no reason to interfere with the aforesaid order of the disciplinary authority or of the appellate authority. Accordingly, this application is dismissed.