

Ram Ayodhya Singh Vs. Managing Director Cum Chairman, Steel Authority of India Ltd New Delhi and Ors

Ram Ayodhya Singh Vs. Managing Director Cum Chairman, Steel Authority of India Ltd New Delhi and Ors

SooperKanoon Citation : sooperkanoon.com/66659

Court : Jharkhand

Decided On : Oct-08-2015

Appellant : Ram Ayodhya Singh

Respondent : Managing Director Cum Chairman, Steel Authority of India Ltd New Delhi and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 7614 of 2011
Ram Ayodhya Singh, Son of Late Raghu Singh, Driver Staff No. 199639 (T.A.)
(Elect)/ Maint) Department Bokaro Steel Plant, resident of quarter No.11/C, 2215,
Bokaro Steel City, Bokaro, P.O. and P.S. B.S. City, District Bokaro. Petitioners
Versus 1. Managing Director-cum-Chairman Steel Authority of India Ltd, New
Delhi.

2. Managing Director, Bokaro Steel City, Bokaro.

3. General Manager (Town Services) Personal Deptt. Bokaro Steel Plant Bokaro
Steel City, Bokaro. Respondents --- CORAM : HON'BLE MR. JUSTICE
PRAMATH PATNAIK --- For the Petitioner : M/s K. K. Singh & Sanjay Kumar,
Advocates For the Respondents : M/s Rajiv Ranjan, Sr. Advocate & Shreshtha
Gautam, Advocate ----- CAV on 04.09.2015 Pronounced on 08/10/2015 Per
Pramath Patnaik, J.

In the accompanied writ application, the petitioner has inter-alia prayed for issuance of a writ/direction for quashing the order dated 26.06.2010 passed by General Manager (T.S.) and Disciplinary Authority (Respondent No.3) whereby, the order has been passed in pursuance to the order dated 11.03.2010 in W.P.(S) No.4042 of 2004 pertaining to the punishment order of dismissal from services and the petitioner has further prayed for direction to respondent to reinstate in the services with all consequential benefits.

2. The facts as per averments made in the writ petition in short is that the petitioner while continuing in services as Driver was charge- sheeted by Disciplinary Authority containing three charges as per Annexure-1 to the writ application. On receipt of the aforesaid charges, the petitioner submitted his explanation to the charges levelled against him denying allegations/charges levelled against him vide Annexure-2 to the writ application. Thereafter, the inquiry officer was appointed and the said officer submitted his report to the disciplinary authority and the petitioner was found guilty for the third charge of unauthorized use of Company's property and the copy of the enquiry report dated 10.04.2001 has been annexed as Annexure-3 to the writ application. On receipt of the enquiry report, the disciplinary authority issued notice directing him to make his submission in writing, in respect of the finding of the Enquiry Committee for the purpose of enabling him to inflict suitable punishment to the petitioner vide Annexure-4 to the writ application and the petitioner submitted his defence and disclosed the circumstances as to how the truck of the Company was operated in between 07.05.1999 to 10.05.1999 and proved from the records of the company that the said truck was used by the petitioner and as such, it could not be presumed to be a use of the truck in an unauthorized manner and the copy of the said defence petition dated 10.01.2002 has also been marked as Annexure-5 to the writ application. Having received the aforesaid explanation submitted by the petitioner in his defence, the disciplinary authority dismissed the petitioner from the services of the company with immediate effect from 14.02.2002 as per Annexure-6 to the writ application.

3. Being aggrieved by the order of dismissal, the petitioner preferred an appeal in terms of the standing order of the company enumerated in Clause-41, but the

Management-Company has refused to entertain the appeal preferred by the petitioner as per Annexure-7 to the writ application. Being aggrieved by the order of the Appellate Authority dated 19.06.2004 confirming the order passed by the Disciplinary Authority as evident from Annexure-9 to the writ application, the petitioner preferred the writ petition bearing W.P.(S) No. 4042 of 2004 3 challenging the order of dismissal and the said writ petition was disposed of vide order dated 11.03.2010 by setting aside the order of punishment and the matter was remitted back to the disciplinary authority to reconsider the entire issue regarding the quantum of punishment as per Annexure-10 to the writ application. Petitioner submitted a representation before the disciplinary authority alongwith the copy of judgment of this Court dated 11.03.2010 and has requested to reconsider the entire matter in the light of the order passed by the Hon'ble Court as per Annexure-11 to the writ application. The respondent authorities passed an order dated 26.06.2010 restoring the previous order of dismissal as per Annexure-12 to the writ application. Being aggrieved by the order dated 26.06.2010, the petitioner left with no other alternative efficacious and speedy remedy has approached this Court invoking extra-ordinary jurisdiction under Article 226 of the Constitution of India for redressal of his grievances.

4. Per-contra the respondents have filed counter-affidavit repelling the averments made in the writ application. In the counter-affidavit, it has been submitted that in pursuant of the order of the Hon'ble High Court dated 11.03.2010, the impugned order dated 26.06.2010 has been passed which is neither illegal nor unconstitutional. It has further been submitted that as per the findings of the enquiry report the first two charges i.e. negligence of duty and habitual indiscipline and willful in subordination which relates to filling of diesel in Truck No. BHR6506 against backdated coupon without information and revalidation by reporting officer and non-deposit of key of truck no. BHR6506 to the reporting officer in place other than specified location are not proved but the third charge i.e. unauthorized use of company's property has been proved to the extent of unauthorized operation of truck bearing no. BHR6506 inside the plant on 07.05.1999 for filling diesel in it 4 without any information and authorization of reporting officer. It has further submitted in the counter-affidavit that inquiry report further divulges that a team of police of Marafari PO. Station seized 18 Nos of

Stainless Steel Plats outside the Plant at Sibandih Basti on 09.05.1999 at 1 P.M. and it was apprehended that those plates after being taken out illegally by the driver of BSL, Truck No. BHR6506 from Bokaro Steel Plant, in connivance with some B.S. Officials and CISF were unloaded at the aforesaid spot during the previous evening on 08.05.1999. Accordingly, FIR No.16/99 dated 10.05.1999 Under Sections 379, 414, 411 of IPC was registered. Later on, for proper investigation of FIR no. 16/99 dated 10.05.1999 of P.S. Marafari District Bokaro was transferred to CBI. The CBI registered a case No. RC5S2003/SEB/11/D4 Under Sections 380, 414, 34 of IPC. Accordingly, the CBI charge sheeted the petitioner vide Chargesheet no. 1 of 2005 dated 31.05.2005 under Sections 380, 414, 411, 34 of IPC. In view of the above, the petitioner is an accused of serious and grave offences. Therefore, the maximum punishment of dismissal from service was awarded as it was against the interest of the company to keep him in service, therefore, dismissal order is justified. It has further been submitted that Clause 37 (x) of Standing Orders unauthorized use of Company quarters, land or other property is an act of misconduct. Then Clause 37 (xvi) willful loss of companys goods or property is also an act of misconduct. Accordingly, the prayer has been made for dismissal of the application in limine.

5. Heard Mr. K. K. Singh, learned counsel appearing for the petitioner and Mr. Rajiv Ranjan, learned senior counsel appearing for the respondents and perused the records.

6. Learned counsel for the petitioner has vehemently submitted that the impugned order dated 26.06.2010 passed by respondent no.3 is illegal, arbitrary and unconstitutional being under the teeth of order 5 dated 11.03.2010 passed by this Court in W.P.(S) No.4042 of 2004. Learned counsel for the petitioner further submits that the petitioner was exonerated from the charges levelled against him and no charge found to be proved against the petitioner except the charges that the petitioner used the Company's property in an unauthorized manner. The evidence procured by the Enquiring Officer was not sufficient to prove the charges levelled against the petitioner for alleged unauthorized use of company's property. The Disciplinary Authority acted in a most arbitrary manner by not considering the representation of the petitioner on proposed punishment of dismissal from service.

Learned counsel for the petitioner further submits that only the third charge against the petitioner was proved, hence infliction of order of dismissal is disproportionate to the alleged charges.

7. On the other hand, learned counsel for the respondents has dexterously countered the submissions of learned counsel for the petitioner by submitting that impugned order dated 22.06.2010 has been passed in compliance of direction of this Court in W.P.(S) No. 4042 of 2004, on the inquiry report as well as the CBI charge-sheet, no interference is called for by this Court in the instant case. Learned counsel for the respondents further submits that the punishment of dismissal has been inflicted upon the petitioner on considering the fact that the vehicle was unauthorizedly unloaded not only for its movement within the plant but also for its movement outside the plant and thereby, siphoning off the Company's valuable properties on the Truck outside the plant, which led to the institution of Marafari Police Station case and also the charge-sheet, submitted by the CBI, therefore, considering the gravity of charges coupled with the findings, punishment of dismissal from services, vide Annexure 12 to the writ application, is justified warranting no interference by this Court. 6 8. Having heard learned counsel for the respective parties at length and on perusal of the relevant documents on records, I find that the petitioner has not been able to make out a case for interference due to the following facts and reasons:- (a) The impugned order dated 22.06.2010 has been passed by the disciplinary authority in compliance of direction of this Court vide order dated 11.03.2010 passed in W.P.(S) No.4042 of 2004 and the impugned order has been passed on perusal of the entire facts, records and reports and on the basis of the inquiry report coupled with CBI-charge sheet against the petitioner under Sections 380, 414, 411, 34 of the Indian Penal Code. (b) The case of the petitioner has been considered on the question of quantum of punishment but taking into consideration the interest of the company, the order of punishment of dismissal from service has been passed, which does not call for any interference for the proved charges since the impugned order of punishment is not shockingly disproportionate.

9. On the cumulative effect of facts and reasons as well as logical sequitur to the discussion made in the foregoing paragraphs, I find that the petitioner has not able

to make a case for interference by this Court. Accordingly, the writ petition is dismissed being devoid of any merit. (Pramath Patnaik, J.) RKM/- N.A.F.R.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com