

Ranjan Kumar Vs. State of Jharkhand and Ors

Ranjan Kumar Vs. State of Jharkhand and Ors

SooperKanoon Citation : sooperkanoon.com/66787

Court : Jharkhand

Decided On : Oct-30-2015

Appellant : Ranjan Kumar

Respondent : State of Jharkhand and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S.) No. 1128 of 2012
.... Ranjan Kumar son of Shri Kamta Singh, resident of Village and P.O.-
Pitamberpur, P.S. Ghoshi, District-Jehanabad (Bihar). ... Petitioner Versus 1. The
State of Jharkhand through the Secretary, Department of Home (Police) having
office at Project Building, P.O. and P.S. Dhurwa, Town and District- Ranchi.

2. The Director General of Police cum Inspector General of Police, Jharkhand
Police Headquarter near Project Building, P.O. and P.S.- Dhurwa, Town and
District-Ranchi.

3. The Deputy Inspector General of Police, Palamau Range having office at
Daltonganj, P.O. and P.S. Daltonganj, District-Palamau.

4. The Superintendent of Police, Garhwa, P.O. and P.S.-Garhwa, District -
Garhwa. ... Respondents ... CORAM:HON'BLE MR. JUSTICE PRAMATH
PATNAIK ... For the Petitioner : Mr. Manoj Tandon, Adv. For the Respondents :
Mr. Anshuman Kumar, JC to A.G. CAV on 28th August, 2015 Pronounced on :

30. 10 /2015 In the accompanied writ application, the petitioner has, inter-alia, prayed for quashing the order of punishment dated 20.08.2010, passed by the respondent no. 4 in departmental proceeding no. 48/2008 pertaining to dismissal of the petitioner from services and for quashing of order dated 21.05.2011 passed by respondent no. 3, the appellate authority, confirming the order of the dismissal of the disciplinary authority and for quashing the order dated 06.02.2012 passed by respondent no. 2 rejecting the memorial/representation of the petitioner against the order of dismissal of the appellate authority and the petitioner has further prayed for direction upon the respondents to reinstate the service of the petitioner with all consequential benefits including payments of back wages.

2. The facts as described in the writ application in a nutshell is that the petitioner was registered in Bihar School Examination Board, Patna in the name of Ranjan Kumar son of Kamta Singh to appear in the matriculation examination as per the Annexure-1 to the writ 2 application. Thereafter, the School Leaving Certificate was granted by the concerned school to the petitioner in the name of Ranjan Kumar son of Shri Kamta Singh as evident from the Annexure-2 to the writ application. The petitioner was granted passing Matriculation Certificate from Bihar School Examination Board, Patna in which the name of the petitioner has been recorded as Ranjan Kumar son of Shri Kamta Singh as per Annexure-5 to the writ application. The voter Identity Card granted by the Election Commission of India shows that the name of the petitioner recorded as Ranjan Kumar son of Kamta Singh as evident from Annexure-6 to the writ application.

3. The petitioner was appointed as constable in Garhwa District on the basis of the certificates furnished by him vide order dated 18.05.2005. After appointment on the said post, the petitioner discharged his duties with due diligence and to the satisfaction of the authority. However, to the utter surprise a memo of charges were framed against the petitioner vide memo no. 3146 dated 2.2.2008 containing altogether 8 charges framed against the petitioner as per the Annexure-7 to the writ application. In pursuance to the charges framed against the petitioner, the petitioner submitted written statement of defence to the respondent no. 4 vide Annexure-8 dated 29.09.2008. The inquiry officer thereafter submitted his inquiry report on the alleged charges vide order dated 1.07.2010 as per the Annexure 9 to

the writ application, holding the petitioner guilty of the charges. Thereafter, the petitioner submitted his reply to the respondent no. 4 on 31.07.2010 vide Annexure-10 to the writ application. The respondent no. 4 without taking into consideration the points taken by the petitioner in his reply dated 31.07.2010 dismissed the petitioner from services vide order contained in memo no. 2842 dated 20.08.2010, passed in Garhwa district departmental proceeding no. 48/08 vide Annexure-11 to the writ application.

4. Being aggrieved by the order of dismissal, the petitioner preferred an appeal before the respondent no. 3, which was rejected by the appellate authority and order contained in Memo No. 806/go. dated 3 21.5.2011 has been passed vide Annexure-12 to the writ application.

5. The petitioner left with no option preferred his memorial on 24.6.2011 before the respondent no. 2 and the said memorial has also been rejected, which was communicated to the petitioner by memo no. 59 dated 6.2.2012 vide Annexure-14 to the writ application.

6. Left with no efficacious alternative remedy, the petitioner has approached this Court invoking the extraordinary jurisdiction under Article 226 of the Constitution of India for redressal of his grievances.

7. Heard Mr. Manoj Tandon, learned counsel appearing for the petitioner and Mr. Anshuman Kumar, learned J.C. to A.G. appearing for the respondents 8. Learned counsel appearing for the petitioner has vehemently submitted that entire departmental proceeding initiated against the petitioner was de hors the Rules governing the service condition of the petitioner. Learned counsel further submits that the initiation of departmental proceeding against the petitioner was on the basis of totally vague charges and in absence of definite charge against the petitioner, entire departmental proceeding is vitiated. Learned counsel for the petitioner further submits that because of non-examination of the witness nos. 3 to 5, as cited in the memo of charge dated 2.09.2008, the entire departmental proceeding are vitiated and as such the impugned orders are fit to be set aside on that ground alone. Learned counsel further submits that the inquiry officer has no power and jurisdiction to hold the delinquent petitioner guilty and to find out

whether the charges have been proved or not. The power of the disciplinary authority cannot be arrogated by the inquiry officer. The non-examination of the chowkidar, who intimated Patna Police regarding alleged misconduct, has vitiated departmental proceeding and in his absence the charges levelled against the petitioner could not be proved. Learned counsel further submits that the appellate authority was duty bound to take into consideration the provisions enshrined in Appendix 49 of the Jharkhand Police Manual and to take 4 into consideration the grounds taken by the petitioner while setting aside the appeal/memorial. Learned counsel further submits that the order of punishment to the charges leveled against the petitioner and the impugned order is violative of Articles 14, 21 and 311 of the Constitution of India.

9. Learned counsel for the respondents Mr. Anshuman Kumar, J.C. to A.G., dexterously submitted by referring to the averments made in the counter-affidavit that the petitioner had committed offence of forgery and fraud to deceive the department of police of Jharkhand as well as of Bihar, by joining in the department of Police of Bihar as constable concealing the fact that he has been a serving constable in Police Department of Jharkhand and he also concealed the fact of joining as constable in Bihar to Police Department of Jharkhand, without resigning from services. He got appointed himself by different name. He has committed offence of forgery, cheating and impersonation. He is liable to be criminally prosecuted. Learned counsel further submits that the petitioner has got himself appointed on 18.05.2005 as constable in Jharkhand Police in the district of Garhwa in connection with Advertisement No.1/2004 by submitting certificates in the name of Ranjan Kumar son of Kamta Singh, village and P.O. Pitamberpur, P.S.Ghoshi, District Jehanabad while the same person got himself appointed on 26.12.2007 in connection with advertisement No. 1/04 in the district of Patna, Bihar in the name of Santosh Kumar son of Kamta Sharma of Vilage Pitamberpur, P.S. Ghoshi (Onkari) District Jehanabad by submitting a different set of certificates for the same person of the same village, same P.S. and the same district and of same Fathers first name. It also transpires that the copies of certificates and form containing photograph of said Santosh Kumar submitted in Bihar are of the same Ranjan Kumar and the report obtained in enquiry from S.P., Patna and S.P., Jehanabad the above contentions found confirmed that Ranjan Kumar is Santosh

Kumar and vice-versa. The Photostat copies of the form and photographs along with certificates submitted before the police 5 Department of Bihar and the form with photographs and certificates produced before Garhwa Police at the time of joining and the Photostat copies of report obtained from S.P. Patna and Jehanabad are annexed as Annexure-A, A/1, B and B/1 to this counter-affidavit. Learned counsel further submits that the charges framed against the petitioner have been proved by the evidence on record of the departmental proceedings and otherwise reports obtained from S.P. Patna and Jehanabad as well as the records of authority of Police of Garhwa that the petitioner has not committed only simple misconduct and irregularity rather he intentionally committed serious offence of forgery and fraud for illegal benefits of obtaining the amount of salary from the government fund. With the aforesaid submissions, prayer has been made for dismissal of the petitioner.

10. Having heard learned counsel for the parties at length and on perusal of the records, it appears that the petitioner has not been able to make out the case for interference of this Court in the impugned order of punishment dated 20.08.2010 and the order recorded by the appellate authority respondent no. 3 on 21.05.2011 in view of the following facts, reasons and judicial pronouncements: (I) On careful consideration of the writ application, counter- affidavit, rejoinder to the counter-affidavit as well as the rivalised submissions, it appears that it has been found that the charges levelled against the petitioner has been proved by the evidence on record on the departmental proceeding and otherwise reports obtained from S.P., Patna and Jehanabad as well as the records of authority of Police of Garhwa that the petitioner has not committed only simple misconduct and irregularity rather he intentionally committed serious offence of forgery and fraud for illegal benefits of obtaining the amount of salary from the government fund. The petitioner has failed to appear and prove whether he is known as two names and how obtained two certificates and why he get himself appointed in two states at the same period of time. Therefore, the impugned order of punishment does not call for any interference. So far as the question of quantum of 6 punishment is concerned, the impugned order of punishment of appellate authority is not shockingly disproportionate, so as to warrant of any interference by this court.

11. As a cumulative effect of the facts, reasons and judicial pronouncements and in view of the discussions made in the foregoing paragraphs, I am of the considered view that it is not a case in which order of penalty has been passed ignoring the relevant materials on record nor the case is based on no evidence. Therefore, the impugned order of punishment of dismissal from service vide Annexure-11 to the writ petition being confirmed by the appellate authority as well as the revisional authority vide Annexures-12 and 13 respectively, do not warrant any interference of this Court being devoid of merit.

12. Accordingly, the writ petition is dismissed being devoid of merit. (Pramath Patnaik, J.) The Jharkhand High Court, Ranchi Dated: /10/ 2015 MM /AFR/NAFR

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