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Arvind Kumar Vs. State of Jharkhand Thr the Principal Secretary Department of Home Affairs and Ors

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Court : Jharkhand

Decided On : Aug-03-2016

Appellant : Arvind Kumar

Respondent : State of Jharkhand Thr the Principal Secretary Department of Home Affairs and Ors

Judgement :

1 IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (S) No. 4079 of 2015 ------- Arvind Kumar, S/o Shri Ram Lakhan Prasad, Resident of Village Dhanawa, Post Office + P.S. Rupau, District: Nawada (Bihar), Pin:

80510. , At present Constable No. 163, Jharkhand Armed Police- 8th Battalian, Lesliganj, P.O & P.S-Lesliganj, Distt Palamu, Jharkhand State, Pin-822118. ... Petitioner Versus 1.The State of Jharkhand through the Principal Secretary, Department of Home Affairs, Govt. of Jharkhand, Project Bhawan, 1st Floor, H.E.C Campus, Dhurwa, Ranchi-834004. 2.Sri D.K. Pandey, IPS, Director General and Inspector General of Police, Jharkhand Police Headquarters, P.O Dhurwa, Ranchi- 834004. 3.Deputy Inspector General of Police, Jharkhand Armed Police, Raja Rani Kothi, P.O-Doranda, Ranchi-834002. 4.Shri Madan Mohan Lal, IPS, Commandant, Jharkhand Armed Police 8th Battalian, Lesliganj, P.O & P.S-Lesliganj, Distt Palamu, Jharkhand State, Pin-822118. 5.Shri Nelson Surin Inspector (A) and Company Commander, C/0 Commandant, Jharkhand Armed

Police 8th Battalian, Lesliganj, P.O & P.S-Lesliganj, Distt Palamu, Jharkhand State, Pin-822118. 6.Constable No. 234 Ashish Dubey, C/0 Commandant, Jharkhand Armed Police 8th Battalian, Lesliganj, P.O & P.S-Lesliganj, Distt Palamu, Jharkhand State, Pin-822118. Respondents ------ CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK ------ For the Petitioner : Mr. Ram Kumar Kataria, Advocate. For the Respondents : Mr. Chanchal Jain, J.C to A.A.G ------ C.A.V on 19.05.2016 Delivered on 3 /08/2016 Per Pramath Patnaik, J.: In the accompanied writ application, the petitioner has inter alia prayed for quashing impugned order dated 12.09.2014 whereby punishment of forfeiture of increment for 6 months has been imposed upon the petitioner and also for quashing order dated 11.02.2015, whereby the appeal preferred by the petitioner has been rejected and further prayed for full salary from the date of punishment with all consequential benefits.

2. The facts, as disclosed in the writ application, in brief, is that petitioner while serving as constable in Jharkhand Armed 2 Police, Palamu, it is alleged that one Ashish Dubey, working as writer-constable, demanded illegal benefits, which the petitioner refused, hence, Mr. Ashish Dubey threatened him of dire consequences. It is further stated that Mr. Ashish Dubey got a report prepared signed by the Company Commander, when he was in drunken condition, against the petitioner and two other Jawans mentioning therein that they were trying to flout the discipline of force and were instigating Jawans by using offensive language. Basing on these charges, enquiry officer inquired into the matter and found the charges proved against the petitioner, accordingly, the Commandant (Respondent No.

4) awarded punishment of forfeiture of increment for 6 months vide order dated 12.09.2014, which was challenged in appeal, that was rejected vide order 11.02.2015.

3. Learned counsel for the petitioner submitted that the Company Commander, who put his signature on the alleged report, has not supported the allegation levelled against the petitioner. On being questioned by the petitioner, he only replied that the petitioner used to support the Jawans, so he gave his name, which clearly indicates that he has sent a false report against the petitioner. It has further

been submitted that even the independent witness in his statement has specifically stated that he knows the petitioner for the last one year and no instigating word has been spoken by this petitioner and he never flouted discipline. It has further been stated no witness has stated against the petitioner but the Enquiry Officer has given his biased opinion finding the petitioner guilty of the charges. Learned counsel for 3 the petitioner further submitted that the impugned order has been passed against the spirit of Rule 826 of the Jharkhand Police Manual.

4. Controverting the averments made in the writ application, learned counsel for the respondents submitted that on getting information that petitioner uses instigative words and is involved in inappropriate behavior, the petitioner was asked to submit show cause explanation and on being found his explanation unsatisfactory, proceeding was initiated against him. It has further been submitted that as per Rule 828 (C) of the Police Manual, charge-sheet was issued and enquiry was conducted by the Enquiry Officer as per the law and procedure established by law and after affording proper opportunity of hearing to the petitioner and after following the principles of natural justice, the enquiry officer submitted report its report observing that the petitioner is guilty of the alleged charges. Basing on the findings recorded by the enquiry officer, disciplinary authority imposed the punishment, which has duly been affirmed by the appellate authority, which never warrants interference.

5. Having heard learned counsel for the parties at length and on perusal of the record, I am of the considered view that the impugned order of punishment dated 12.09.2014 and appellate order dated 11.02.2015 do not warrant interference by this Court for the following facts and reasons: (i).In the case at hand, the allegation against the petitioner and some other police personnel is that they used instigative words and were involved in inappropriate behavior, which was proved 4 in the departmental proceeding. On perusal of the records, it is quite evident that there has been no procedural irregularity from the initiation of disciplinary proceeding till its culmination as the petitioner has been found guilty of the charges by the enquiry officer. The Hon'ble Apex Court in the case of State of U.P. and others Vs Raj Kishore Yadav and Another as reported in (2006) 5 SCC673at paragraph 4 has held that:

4. ..... It is a settled law that the High Court has limited scope of interference in the administrative action of the State in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, and, therefore, the findings recorded by the enquriy officer and the consequent order of punishment of dismissal from service should not be disturbed..... The Hon'ble Apex Court further in the case of Krushnakant B. Parmar Vs. Union of India and Another as reported in (2012) 3 SCC178has held that High Court under Article 226 cannot disturb the facts and findings given by the disciplinary authority. (ii). The Hon'ble Apex Court in the case of Union of India & Anr. Vs. G. Ganayutham as reported in (1997) 7 SCC463held that in the matter of penalty imposed in a disciplinary case, unless the Court/Tribunal opines in its secondary role, that the administrator was, on the material before him, irrational, the punishment cannot be quashed. (iii).Now, the moot question which falls for determination by this Court is as to whether the impugned order of punishment can be interfered with by this Court on the ground of doctrine 5 of proportionality or in other words on the question of quantum of punishment. (iv).The Hon'ble Apex Court further in the case of B.C. Chaturvedi Vs. Union of India & Others as reported in (1995) 6 SCC749has held that the Court will not interfere with the order, unless the punishment order is one which shocks the conscience of the Court. Similar view has been expressed by the Hon'ble Apex Court in the case of M.P. Electricity Board Vs. Jagdish Chandra Sharma as reported in (2005) 3 SCC401 In the case at hand, the impugned order is not shockingly disproportionate and is in commensurate with the proved charges, hence, need no interference by this Court.

6. As a cumulative effect of the aforesaid facts, reasons and judicial pronouncements and logical sequitur to the discussions made in foregoing paragraphs, the impugned order dated 12.09.2014 and appellate order dated 11.02.2015 do not warrant any interference and accordingly, the writ petition, is dismissed being devoid of any merit. (Pramath Patnaik, J.) Alankar/-

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