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Peter Barla Vs. Police

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Court : Jharkhand

Decided On : Dec-17-2014

Appellant : Peter Barla

Respondent : Police

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) 2486 of 2013 Peter Barla ..... Petitioner Vs.

1. The State of Jharkhand 2. Director General -cum- Inspector General of Police,Jharkhand 3. Deputy Inspector General of Police, Jharkhand 5. Superintendent of Police, Dhanbad ..... Respondents. ---------- CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD ---------- For the petitioner : Mr. Vaibhav Kumar, Advocate For the respondents : J.C. to A.G. ---------- 04/Dated:

17. h December, 2014 Petitioner being aggrieved with the orders dated 3.8.2010 and 9.4.2010 passed by Deputy Inspector General of Police, Coal Range,Bokaro and Superintendent of Police,Dhanbad respectively by which he had been dismissed from service,has approached this Court. It has been submitted on behalf of petitioner that he was appointed as Constable in the Gumla District Police Force on 10.7.1999. While he was posted in Chirkunda P.S. in the District of Dhanbad, a memorandum of charge had been issued against him alleging therein that the petitioner in drunken state of mind had given his joining in the

Chirkunda P.S. and even on duty he always used to remain in drunken stage and used abusive words due to which image of police became very bad in general public. A regular departmental enquiry had been conducted and the petitioner was directed to appear before inquiry officer. The inquiry officer had given a finding with respect to proving of charge. Thereafter disciplinary authority had accepted the same and passed order of dismissal against the petitioner. The petitioner had preferred an appeal before the appellate authority who had also upheld the order of dismissal. The ground for assailing the impugned orders by the petitioner is that the petitioner had not been provided adequate and sufficient opportunity of being heard. It has further been submitted that the petitioner had not been brought before the doctor for his medical examination with respect to proving of charge related to 2 drunken stage of the petitioner. It has also been submitted that in absence of any material on record the finding given by the inquiry officer relating to proving of charge is improper and only on the basis of perfunctory inquiry report the services of an employee cannot be taken away that too by passing the order of dismissal which is a harsh punishment. On the other hand counsel appearing on behalf of respondents-State has submitted that the nature of allegation against the petitioner is very serious. Petitioner being a member of disciplined Force can not be expected to remain in drunken stage for twenty four hours and also not expected to use abusive words in public or in open place. It has been further submitted that the inquiry officer after perusing the exhibits and the evidences produced by the department had come to the finding that the charges levelled against the petitioner is proved. It has further been submitted on behalf of respondents- State that the petitioner had been given sufficient opportunity of being heard as second show cause notice had also been issued against him but in spite of repeated notices issued to the petitioner it was the petitioner who had chosen not to give any reply. Thereafter, the order of dismissal had been passed on the basis of findings given by the inquiry officer which had also been affirmed by the appellate authority. Heard the parties. The petitioner is a member of disciplined Force. The allegation against the petitioner is that he used to come to office in drunken state of mind and remain in drunken stage for all the time and also used abusive and unparliamentary words towards the colleagues and the people due to which the image of police in general public has become bad. After

initiation of departmental proceeding the petitioner had been given all due opportunity to rebut the charges before the inquiry officer. The inquiry officer had taken statement of one S.I. Rajendra Kumar, Officer in charge, Chirkunda P.S. who had stated that petitioner always remained in drunken stage and in course of convincing him for not doing so he used abusive 3 language. In drunken stage the petitioner used to go on road and always used to obstruct vehicles and insult the general public. Sub- Inspector Rajendra Kumar Das the Officer in charge of Chirkunda P.S. was his immediate controlling authority who had specifically stated that under this situation it was not possible to take work from him. He had also given report in this regard. The other witness namely Ashok Kumar had also deposed and affirmed the charges levelled against the petitioner. On perusal of counter-affidavit it is apparent that the petitioner was given sufficient opportunity to defend himself but in- spite of issuance of repeated notices he had not presented himself and also not given any reply to the show cause notice. It further appears that the disciplinary authority after appreciating the inquiry report and the depositions of the witnesses, had come to the conclusion that the charges levelled against the petitioner was true. After submission of inquiry report second show cause notice had also been given to the petitioner which had accordingly been replied on 4.4.2010, but, finding the same dis- satisfactory and also after perusing the previous service records of the petitioner the orders impugned had been passed. The previous service records of the petitioner shows that:

1. while the petitioner was posted in Zokta P.S. as Reserve Guard he was absent from duty in drunken stage for that one order of punishment had been passed against him being order no. 2804 of 2006, withholding one annual increment.

2. When the petitioner was posted at Saraidhela P.S. he was absent from office without information for that one punishment order had been passed being order no. 1177 of 2004, withholding two annual increments of the petitioner.

3. One punishment had also been imposed by the Dhanbad district police in course of inquiry no. 1 of 09 upon the petitioner because the petitioner had not given his joining at new place of deputation for that the order was passed being order no. 1239 of 2010, withholding one annual increment.

4. One another punishment order being order no. 1240 4 withholding two annual increments had been passed upon the petitioner while he was posted in Dhanbad P.S. for using abusive language. The disciplinary authority on perusal of earlier antecedent of the petitioner and the findings given by the inquiry officer on the basis of the statements recorded in course of inquiry had come to the conclusion that the petitioner is not fit to be retained in service. Hence, order impugned had been passed. In this context it needs to refer Bihar Jharkhand Servant Conduct Rule 1976 which has been incorporated under the provision of Article 309 of Constitution of India by the Governor of Bihar wherein at Rule 3 it has been provided that:

3. General-(1) Every Government servant shall at all times- (i) Maintain absolute integrity; (ii) Maintain devotion to duty;and (iii) Do nothing which is unbecoming of a Government servant. Further Rule 4 provides that- 4. Consumption of intoxicating Drink and Drugs.- No Government servant shall- (i) while on duty be under the influence of intoxicating drink or drugs to such an extent as to tender him incapable of discharging his duties properly and efficiently; (ii) habitually use intoxicating drink and drugs to excess; (iii) appear in public place in a state of intoxication; and (iv) consume any intoxicating drink or drug in public place. Considering the nature of allegation it can be safely said that the conduct of the petitioner is not fit to be a government servant. On perusal of record it appears that sufficient opportunity of 5 being heard had been given to the petitioner but, it was the petitioner who himself chosen not to appear before the inquiry officer, in spite of several notices given to him which reflects his adamant attitude. The disciplinary authority after going through the past record of the petitioner had passed the order impugned which had also been upheld by the appellate authority. Since the disciplinary authority has given specific finding that has been dealt with by the appellate authority as well as by the revisional authority and, as such, this Court sitting under article 226 of the Constitution of India cannot reappraise the evidence and cannot disturb the facts and findings given by the disciplinary authority as has been dealt with by the Hon'ble Apex Court in the case of State of U.P. & ors. Vs. Raj Kishore Yadav and another reported in (2006)5 SCC673at para 4 as follows: ..... 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 enquiry officer and the consequent order of punishment of dismissal from service should not be disturbed. Considering the above facts there is no reason to interfere with the impugned order. Hence, instant writ petition stands dismissed. (Sujit Narayan Prasad,J.) Nibha

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