Arvind Kumar Singh S/o Manejar Singh Vs Union Of India

Court: Jharkhand High Court

Date of Decision: Jan. 24, 2025

Acts Referred: Constitution of India, 1950 â€" Article 226, 227

Hon'ble Judges: Ananda Sen, J

Bench: Single Bench

Advocate: Abhishek S. Sinha, Avinash Kumar, Nitu Sinha, Suman Marandi

Final Decision: Dismissed

Judgement

Ananda Sen, J

1. In this writ petition, petitioner has challenged the order passed by the revisional authority as contained in letter No.11015/East/LC/Rev-01/ 2022-

546, dated 31.01.2022; the order passed by the appellate authority as contained in letter No.V-14013/BSL/CISF/LEGAL/AKS/2021-6843-(E) dated

20.11.2021 as also the order passed by the Disciplinary Authority as contained in letter No. V-15014/CISF/BSL/Admn.-II/A.K.Singh/Major/21-841

dated 25.08.2021 whereby and whereunder punishment of Ã¢â‚¬Å“reduction of pay by one stage from Rs.35,300/- in Level 4 of Pay Matrix to Rs.34,300/-

in Level 4 of Pay Matrix for a period of one year with immediate effect; and it was directed that he will not earn increment of pay during the period of

reduction and on expiry of the above period, the reduction will have the effect of postponing his future increments of payÃ¢â‚¬ was awarded to the

petitioner.

2. Learned counsel for the petitioner submitted that the punishment imposed upon the petitioner, i.e., lowering of his pay by one stage in pay matrix is

absolutely illegal. He submitted that petitioner had no other option, but to leave the Quarantine Centre during the Covid period because, it was

necessary for him to repair the phone as no one was there. He took all precautions and thereafter returned. He pleaded that the second charge

leveled against the petitioner cannot be said to be a misconduct as the petitioner had already been earlier punished for the same. Learned counsel for

the petitioner further pleaded that necessary documents were not handed over to the petitioner, thus, he could not defend his case properly. Petitioner

also claimed that the Enquiry Officer was bias and his prayer to change the Enquiry Officer was not adhered to.

3. Learned counsel appearing on behalf of the Union of India submitted that in a Departmental Proceeding, petitioner was inflicted the punishment of

lowering of pay by one stage. He argued that the statutory appeal was considered and the same was rejected by a reasoned order and so was the

revision also. He contended that this Court sitting in a writ jurisdiction under Article 226 of the Constitution of India cannot reappraise the facts. There

is no procedural illegality in the departmental enquiry. He further argued that the punishment is neither harsh nor disproportionate, therefore, no

interference is necessary.

4. Petitioner is a member of a Disciplined Force. He is in Central Industrial Security Force. He is a Constable. The petitioner was proceeded against

departmentally. There were two charges against the petitioner. The first charge is that he was found Covid Positive and he was immediately shifted to

the Executive Hostel in a separate room for isolation on 29.04.2021. On 01.05.2021 at about 10.30 when checking was being conducted, this petitioner

was found missing from his room. He had, in fact, left the isolation centre and was mixing with the civilians. After some time, he was seen entering

the Executive Hostel in a two wheeler, thus, he disobeyed the orders and acted irresponsibly being a Covid infected patient. The second charge was

that on earlier occasions he was already inflicted three minor punishments, but inspite of that he did not mend himself.

5. From the records I find that the Enquiry Officer, after a proper enquiry and giving full opportunity to the petitioner came to the conclusion that the

charge against the petitioner is proved. Petitioner was given an opportunity and thereafter the impugned order of punishment was passed by which the

pay scale of the petitioner was reduced by one stage. Petitioner preferred a departmental appeal. The grounds and submissions which were urged by

the petitioner were duly considered by the Appellate Authority and his appeal was dismissed. The Revisional Authority also considered the entire

defence of the petitioner and dismissed the revision application of the petitioner.

6. While going through the punishment order, appellate order and revisional order, I find that each and every point, which the petitioner raised, were

considered and was dealt by the authority. Even the documents were also dealt with and answered. The Revisional Authority held that all the

documents were handed over to the petitioner and rest of the documents, which the petitioner was asking for, had absolutely no relevance for the

purpose of this case. The allegation against the Enquiry Officer and the Disciplinary Officer was also baseless, as held by the Revisional Authority. I

also find that the petitioner has unnecessarily alleged bias against the Enquiry Officer without there being any strong backing. The Enquiry Officer

found the allegation against the petitioner, that inspite of being Covid positive, he left the Covid Centre and mixed with the general public, to be proved.

Being a member of the Disciplinary Force, he had to maintain utmost discipline, which he failed to do.

7. This Court sitting in writ jurisdiction under Article 226 of the Constitution of India is not an appellate authority. The scope of judicial review in

departmental proceeding is very limited. The HonÃ¢â‚¬â„¢ble Supreme Court in the case of Director General of Police, Railway Protection Force and

Others versus Rajendra Kumar Dubey reported in 2020 SCC OnLine SC 954 at paragraph 37 thereof has held that it is well settled that High Court

cannot act as an Appellate Authority and re-appreciate the evidence, which was led before the enquiry Officer. By referring to judgment in the case

of State of Andhra Pradesh versus S. Sree Rama Rao reported in 1963 AIR SC 1723, the HonÃ¢â‚¬â„¢ble Supreme Court has held that it is not the

function of the High Court to review the findings and arrive at a different finding. In a departmental proceeding, scope is very limited and it is well

settled that the High Court can interfere where the departmental authority has acted against the principles of natural justice or where the findings are

based on no evidence or in violation of the statutory rules provided. Further, if the punishment imposed is excessive, the Court can also interfere. It has

also been held by the HonÃ¢â‚¬â„¢ble Supreme Court that under Articles 226 and 227 of the Constitution of India, the High Court shall not: -

(i) re-appreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in the case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based;

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.

8. In view of the aforesaid settled principle, since the procedure has been followed and the fact finding authority has held that the charges leveled

against the petitioner are proved and since there are no overwhelming material to come to a different conclusion, I am not inclined to interfere with the

finding of fact that the petitioner was found guilty of misconduct.

9. Further, it has been held by the HonÃ¢â‚¬â„¢ble Supreme Court in the case of Regional Manager & Disciplinary Authority versus S. Mohammed

Gaffar reported in (2002) 7 SCC 168 has held that unless the punishment or penalty imposed by the disciplinary or Appellate Authority is either

impermissible or such that it shocks the conscience of the High Court, it should not normally interfere with the same. Paragraph 10 of the said

judgment reads as under: -

Ã¢â‚¬Å“10. The High Court seems to have overlooked the settled position that in departmental proceedings, insofar as imposition of penalty or punishment is

concerned, unless the punishment or penalty imposed by the disciplinary or Appellate Authority is either impermissible or such that it shocks the conscience of

the High Court, it should not normally interfere with the same or substitute its own opinion and either impose some other punishment or penalty or direct the

authority to impose a particular nature or category of punishment of its choice.Ã¢â‚¬â€‹

10. In this case, punishment, which was imposed is lowering down the pay of the petitioner by one stage. Though the second charge cannot be said to

be a misconduct, but the same can be taken into consideration for imposing punishment. I find that the petitioner was earlier punished for different

misconducts thrice. The same was considered for imposing the punishment in this case as it is not the first case of misconduct of the petitioner. The

punishment imposed is neither excessive nor harsh.

11. Considering what has been held above, I am not inclined to interfere with the impugned order by exercising extraordinary jurisdiction under Article

226 of the Constitution of India. This writ petition is, accordingly, dismissed. Pending interlocutory applications, if any, stand disposed of.