

(2013) 07 JH CK 0036

Jharkhand High Court

Case No: Writ Petition (S) No. 941 of 2013

Ramchandra Prasad Verma

APPELLANT

Vs

The State of Jharkhand, Director
General-cum-Inspector General
of Police, (JAP), Deputy Inspector
General of Police (JAP) and
Commandant, (JAP-10)

RESPONDENT

Date of Decision: July 23, 2013

Citation: (2013) 4 JLR 491

Hon'ble Judges: Shree Chandrashekhar, J

Bench: Single Bench

Advocate: S.N. Pathak and Mr. Rishikesh Giri, for the Appellant; Pravin Kumar Rana, J.C. to A.G., for the Respondent

Judgement

Shree Chandrashekhar, J.

The sole question involved in this case is whether the commandant on whose complaint, disciplinary enquiry was initiated against the petitioner and who is also the disciplinary authority, would have passed the order of penalty dated 15.01.2011. The brief facts of the case as disclosed in the writ petition are that, on the complaint dated 14.12.2010, a charge memo. was served upon the petitioner on the allegations that he proved himself an irresponsible and negligent officer, as he could not properly instruct the two mahila police namely, Tara Rajni Barla and Amita Tigga. The petitioner submitted his reply on 27.12.2010. However, as the explanation of the petitioner was not found satisfactory, the Respondent No. 4 passed an order of penalty dated 15.01.2011. The Appeal filed by the petitioner has also been dismissed on 19.09.2011.

2. Heard learned counsel for both the parties and perused the documents on record.

3. Learned Senior counsel appearing for the petitioner has raised a contention that in view of Rule 854(c) of the Jharkhand Police Manual, the penalty order should not have been passed by the Respondent No. 4 rather, it should have been passed by another officer of the rank of Commandant. He relied on the judgment of the Hon"ble Supreme Court reported in (2000) 10 SCC 537.

4. Learned counsel for the respondents submits that in view of the proved misconduct of the petitioner, the order of penalty have been passed, which is justified in the facts of the case. The petitioner was earlier also punished for a mis-conduct and therefore, this is not the matter which requires interference by this Court.

5. Adverting to the contention raised by the learned Senior counsel appearing on behalf of the petitioner that the Respondent No. 4, who is complainant in this case should not have passed the order of penalty dated 15.01.2011, I find that the provision as contained in Rule 854(c) of the Jharkhand Police Manual, which has statutory force, prohibits the Respondent No. 4 from considering the matter, in so far as his role as disciplinary authority is concerned. Rule 854(c) of the Jharkhand Police Manual is extracted below:

Rule 854(c) "When the reporting officer in a departmental proceeding is Superintendent of Police himself, the final orders shall be passed by Superintendent of some other district for which the file should be sent to the Deputy Inspector-General concerned."

6. I find that on the complaint of the Respondent No. 4, the proceeding against the petitioner was initiated and the only evidence which has been produced by the department against the petitioner is, the complaint made by the Respondent No. 4 himself. In such a view of the matter, Respondent No. 4 should not have passed the penalty order dated 15.01.2011. The order dated 15.01.2011 is quashed and thus, the order passed by the appellate authority dated 19.9.2011 would also go. The respondents are directed to pass a fresh order in accordance with law within a period of four weeks from the date of communication of this order.