

(2009) 12 JH CK 0018

Jharkhand High Court

Case No: None

Virender Singh Yadav @ Virender
Singh

APPELLANT

Vs

Union of India (UOI) (Ministry of
Home Affairs), Government of
India and Others

RESPONDENT

Date of Decision: Dec. 10, 2009

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Judgement

Amareshwar Sahay, J.

The petitioner, posted as a constable in C.I.S.F. Unit of B.C.C.L at Dhanbad was departmental proceeded for the charges that on 13.9.1999 at 10.30 A.M. he for personal gain allowed one truck of Britania Transport Shalimar Company to pass illegally for loading Iron Scrap in Area No. X B.C.C.L, Dhanbad without making any entry in the In/Out Register. When the said Truck came out after loading Iron Scrap at the gate in second shift, then it was detected by one another constable that no entry was made in the Register at the time of entry of the truck, which amounted to gross misconduct, willful breach of discipline and prejudicial to the good order and unbecoming of a good member of the armed force of the Union.

2. The petitioner was suspended and then after a full-fledged departmental enquiry, the charge against him was found to be established. On the basis of the enquiry report, the disciplinary authority by order as contained in Annexure-9 inflicted the following punishments to the petitioner:

- (i) Reduction of salary at the initial stage of Rs. 3050/- for five years along with no increment of salary with cumulative effect;
- (ii) He will not be entitled to get anything except subsistence allowance already paid to him during the period of suspension, and the period of suspension i.e. from

14.12.1999 to 23.09.2000 shall be treated to be not on duty.

3. The order passed by the disciplinary authority was challenged by the petitioner before the appellate forum, but the departmental appeal filed by the petitioner was also dismissed. The petitioner has challenged the order passed by the disciplinary authority, as well as of the appellate authority awarding punishment to him. Mr. Pandey learned senior counsel appearing for the petitioner took me to the detailed order passed by the disciplinary as well as of the appellate order and tried to assail the findings on facts arrived at by the aforesaid two authorities. When this Court disclosed its mind that the finding of facts arrived at in a departmental proceeding cannot be disturbed by this Court, unless it is shown to be perverse, then at this juncture, Mr. Pandey, learned Counsel confined his arguments only with regard to quantum of punishment awarded to the petitioner. Mr. Pandey submitted that punishment awarded to the petitioner is disproportionate to the charges since out of two charges, the charge with regard to insubordination has not been found to be established.

4. The only charge remained against the petitioner was that he allowed one truck of Britania Transport Shalimar Company to pass illegally for loading Iron Scrap without making any entry in In/Out Register for his personal gain. On consideration of charge and punishment, I feel that the punishment awarded to the petitioner is somewhat excessive and harsh and it requires interference by this Court.

5. In my view the interest of justice would be met if the order of punishment inflicted on the petitioner is reduced/ modified in the following manner:

- (i) Reduction of salary at the initial stage of Rs. 3050/- for a period of two years without any increment in salary but without cumulative effect.
- (ii) The period of suspension shall not be treated as break in service but nothing would be payable for the suspension period except the subsistence allowance.

6. This writ petition is thus disposed of with the modification in the sentence indicated above.