

(2003) 02 JH CK 0019

Jharkhand High Court

Case No: Writ Petition (C) No. 3211 of 2002

Panchdeo Singh

APPELLANT

Vs

BCCL and Others

RESPONDENT

Date of Decision: Feb. 21, 2003

Citation: (2003) 2 JCR 406

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: R.S. Mazumdar, for the Appellant; A.K. Das, for the Respondent

Final Decision: Allowed

Judgement

M.Y. Eqbal, J.

The petitioner has prayed for quashing the order dated 22.4.1989 by which he has been dismissed from service and also for quashing the order dated 30.4.2002 by which the respondents refused to reinstate him in service.

2. The facts of the case lie in a narrow compass. The petitioner was working as Fan Operator/Switch Board attendant at Angara Pathra Colliery, Katras of the respondent. In the year 1981 he was made accused in a criminal case for an offence u/s 302/149, IPC and he was convicted and sentenced to undergo life imprisonment vide judgment passed by the Sessions Court dated 23.12.1988. The petitioner was served with a charge sheet by the respondents and he was dismissed from service vide order dated 22.4.1989 on the ground of his conviction in the criminal case. The judgment of conviction was finally set aside by the Supreme Court in criminal appeal No. 497 of 2000 vide judgment dated 7.12.2001. The petitioner thereafter made a representation to the respondents annexing the judgment of the Supreme Court and requested to revoke the order of dismissal and to re-instate him in service. The said representation was rejected by the respondents.

3. The respondent's case in the counter affidavit is that since the petitioner was convicted for an offence involving moral turpitude, he was dismissed from service of

the company and the question of considering his case for reinstatement does not arise.

4. I have heard Mr. R.S. Majumdar learned counsel for the petitioner and Mr. A.K. Das learned counsel for the respondents.

5. Although it appears that the petitioner was served with a charge sheet by the respondents but he was dismissed from service solely on the ground that he was convicted and sentenced for life Imprisonment. Admittedly the conviction of the petitioner was set aside by the Supreme Court and the petitioner was acquitted from the charges. After acquittal of the petitioner, when representation was filed by him, it ought to have been considered by the respondent. The representation filed by the petitioner was rejected and the petitioner was informed vide letter dated 30.4.2002 that the competent authority has regretted to consider his case for reinstatement.

6. There is no dispute that in terms of the standing order the dismissal of the petitioner from service on the basis of his conviction was justified, but after acquittal of the petitioner the respondents ought to have considered the representation of the petitioner for his reinstatement in service. Simplicitor termination of service on the ground of loss of confidence cannot be said to be mala fide but if the loss of confidence is based solely on the ground of conviction then after acquittal of an employee, his representation for reinstatement is bound to be considered by the respondents.

7. For the aforesaid reasons this writ application is allowed in part and the order dated 30.4.2001 issued by the respondents refusing to consider the representation of the petitioner is set aside. The matter is remitted back to the respondent for reconsideration of the representation of the petitioner and for taking decision by passing a reasoned order within a period of 30 days from the date of receipt of a copy of this order.