

(2012) 03 JH CK 0046

Jharkhand High Court

Case No: LPA No. 778 of 2003

C.I.S.F.. Unit, Bokaro Steel Plant,
Bokaro (Jharkhand)

APPELLANT

Vs

Sri Ram Mohan Nath Singh and
Others

RESPONDENT

Date of Decision: March 22, 2012

Citation: (2012) 3 JCR 194 : (2012) 2 LJLR 207

Hon'ble Judges: Prakash Tatia, C.J; Aparesh Kumar Singh, J

Bench: Division Bench

Advocate: Sujit Narayan Prasad, for the Appellant; J.P. Gupta, Ashutosh Anand,
Faiz-ur-Rahman, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

1. Heard learned counsel for the parties. This intra Court appeal has been preferred against the order dated 18.8.2003 passed in C.W.J.C. No. 2329 of 1995(R) whereby learned Single Judge of this Court after upholding the finding of guilt of the writ petitioner-respondent interfered in the award of the punishment of removing the petitioner from service and only part of the order passed in the departmental proceeding, obviously, of inflicting punishment has been quashed and the matter has been remanded to the disciplinary authority to impose reasonable and suitable punishment for the charges levelled against the petitioner,

2. Learned counsel for the appellant submitted that the petitioner was earlier punished 13 major/minor punishments during a short period of 8 years of his service only, then he threatened one of the constable namely Mr. L Tirkey by pointing out a long knife (Gupti) with dire consequences. He also threatened that he will kidnap the wife and children of the said constable Mr. L. Tirkey.

3. It is submitted that when the departmental proceeding was fair and in the departmental proceeding one has been punished and appeal against that order of punishment has been dismissed, in that case punishment can be interfered only when quantum of punishment was shockingly disproportionate to the delinquency and for that purpose, the Court is required to record reasons how it is shockingly disproportionate and excessive to the guilt whereas, in the impugned judgment when no reason has been assigned. It is also submitted that it appears that this aspect has not been brought to the notice to the learned Single Judge that the petitioner was already punished on 13 occasions earlier with minor or major punishments in a very short period of his service of 8 years. It is also submitted that the act of a person, holding the post of constable in Central Industrial Security Force (C.I.S.F.) and giving threatening with the long knife itself would be sufficient for passing the order of removal from service.

4. Learned counsel for the appellant relied upon a judgment of Hon"ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank and Others vs. P.C. Kakkar reported in (2003)4 SCC 364.

5. Learned counsel for the respondents submitted that learned Single Judge recorded the reasons that none of the witnesses has supported the department in the departmental proceeding and the petitioner was held guilty because of the solitary statement of the complainant himself. It is also submitted that the petitioner may have been punished on earlier occasion but those punishments were inflicted for minor delinquency like absence from duty and overstaying the leave etc. However, the petitioner was punished with one major punishment only. It is also submitted that this Court may not interfere with the impugned order when the learned Single Judge has considered the facts of the case which cannot be disputed.

6. Learned counsel for the respondents has relied upon a judgment of Hon"ble Supreme Court delivered in the case of Vishwanath vs. Union of India and Others reported in 2007(8) Supreme 331 wherein two persons, involved in scuffle and both were found guilty, then in that situation punishment was found too harsh and set aside by the Supreme Court.

7. We have considered the submissions of the learned counsel for the parties and perused the facts as well as the order passed in the departmental proceeding. The charges levelled against the petitioner in the departmental proceeding is as under:--

ARTICLE-I: Gross misconduct and indiscipline in that no. 874580044 Const. R.N.M. Singh of CISF Unit, BLSM, Bhawanathpur while undergoing rotational training at CISF Unit, BSL, Bokaro, at about 21, 15 hrs on 30.9.94 threatened cost L. Tirkey of Crime Section by pointing out a long knife (Gupti) with dire consequences.

ARTICLE-II: Gross indiscipline and misconduct in that No. 874580044 Const. R.M.N. Singh of CISF Unit, BLSM, Bhawanathpur, while undergoing rotational training at CISF Unit, BSL, Bokaro, at about 21.15 hrs on 30.9.94 he threatened and terrorized

Const. L. Tirkey of Crime Section stating that he will kidnap his wife and children.

ARTICLE-MI: According to the Service Book the No. 874580044 Const. R.M.N. Singh had been awarded 1 number of major and 12 number of minor punishments for various delinquencies. He is a proclaimed offender of absenting from duty post. Can nor become a good Constable.

8. These charges were found to be proved. It is irrelevant that charges have been proved by relying upon the statement of one witness that happen to be the complainant himself. One statement is sufficient for holding one person guilty even in a criminal case when the Court finds that the statement of solitary witness is worth relying as well as proves the guilt of the person. It will be relevant to mention here that the incident has not been denied by other witnesses but in cross-examination, they only stated that they did not identify the person who actually threatened that constable. In view of the matter, the incident has been proved by the statement of other witnesses and then if the complainant says that he was threatened by the petitioner-respondent and his statement has credibility and the finding of guilt stand upheld by even the order of the learned Single Judge, we do not find any justification for the argument of counsel for the employee that employee was held guilty only on the basis of evidence of the complainant. The petitioner-respondent was found guilty on the basis of the evidence supported by the circumstantial evidence.

9. Therefore, this finding which is not under challenge is required to be seen as it is. We are of the considered opinion that even if previous punishment to petitioner are ignored, the writ petitioner's threatening with long knife to co-employee itself was sufficient ground for passing an order of his removal from service. Observation of the learned Single Judge that no physical injury was caused cannot mitigate the delinquency in any manner and particularly, when the petitioner was a constable in Central Industrial Security Force (C.I.S.F.)

10. So far as judgment which has been relied upon by the learned counsel for the respondents is concerned, that has no relevance to the present facts of the case. In that case two persons found involved in scuffle and both were proceeded departmentally and in that situation punishment of removal from service was found too harsh. Here, in this case, it is not the case of any body that other party instigated the petitioner resulting into this type of threat by the petitioner by pointing out a long knife against the co-employee and giving threats of kidnapping of wife and children of the said constable.

11. In view of the above reasons, we do not find any justification for interference in the order of punishment and order of learned Single Judge dated 18.8.2003 is set aside. The writ petition of the petitioner is dismissed and this L.P.A. is allowed accordingly.