

(2011) 06 JH CK 0059

Jharkhand High Court

Case No: W. P. (S) No. 3916 of 2002

Shambhu Nath

APPELLANT

Vs

The State of Jharkhand, The
Deputy Commissioner and The
Deputy Collector, Land
Reforms-cum-Enquiry Officer

RESPONDENT

Date of Decision: June 16, 2011

Hon'ble Judges: Narendra Nath Tiwari, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Narendra Nath Tiwari, J.

In this writ petition, the Petitioner has prayed for quashing the order dated 19th April, 2002 passed by the Respondent No. 2, whereby the Petitioner has been awarded major punishment of reversion from GradeIII post to GradeIV post.

2. The grievance of the Petitioner is that the order dated 19th April, 2002 has been passed without giving him opportunity of filing second show cause. The Petitioner was also not given opportunity to meet the finding of the Enquiry Officer, as the enquiry report was not served on him.

3. A counter affidavit has been filed by the Respondents, opposing the Petitioner's prayer. It has been, inter alia, contended that the impugned order was passed on remand by the appellate authority who had to consider only the quantum of punishment. Earlier there was fullfledged enquiry and the Petitioner was awarded punishment of compulsory retirement. The Deputy Commissioner on remand has considered the points raised by the Petitioner and has reduced the punishment from compulsory retirement to demotion from the post of GradeIII to GradeIV and as such, the impugned order is well considered, proper and legal and the same warrants No. interference.

4. I have heard learned Counsel for the parties and considered the facts and materials on record. The Petitioner has challenged the impugned order, contained in Annexure8, mainly on the ground of violation of principle of natural justice in 2passing the impugned order of punishment against the Petitioner. It has been contended that though the Respondents claimed to have enquired into the charges, which are said to be proved on enquiry, the enquiry report was not served on the Petitioner. The second ground for challenging the impugned order is that in spite of the decision of the disciplinary authority to award punishment of reduction in rank, opportunity for filing second show cause reply has not been given to the Petitioner. The said grounds remained uncontroverted by the Respondents. In the counter affidavit though a vague statement has been made that the Petitioner was given sufficient opportunity for defending himself, No. statement has been made regarding denial of opportunity to meet the enquiry report. There is also No. denial of the fact that the enquiry report was not served on the Petitioner.

5. It is well settled that if the delinquent is held guilty, he is entitled for a copy of the enquiry report. Depriving the delinquent of the said opportunity amounts to denial of reasonable opportunity and the same is violative of principle of natural justice. In this regard, reference may be made to the decisions of the Hon"ble Supreme Court in [Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.](#), , and [Union of India and others Vs. Mohd. Ramzan Khan](#), .

6. For the reasons aforesaid, the impugned order dated 19th April, 2002, contained in Annexure8, is quashed. This writ petition is allowed.