(2003) 12 JH CK 0025

Jharkhand High Court

Case No: CWJC No. 3561 of 1998 (R)

Md. Mister Azad		APPELLANT
	Vs	
State of Bihar and Others		RESPONDENT

Date of Decision: Dec. 3, 2003

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2004) 1 JCR 420

Hon'ble Judges: Amareshswar Sahay, J

Bench: Single Bench

Advocate: J.P. Pandey, for the Appellant; I. Sen Choudhary, S.C. III and Lakhan Chandra Roy, J.C. to S.C. III, for the Respondent

Final Decision: Allowed

Judgement

Amareshwar Sahay, J.

The petitioner, who is the police constable, has been departmental dealt with for alleged misconduct and thereafter the order of dismissal from service was passed by the Sr. S.P. Ranchi against him. The petitioner moved before the Patna High Court by filing C.W.J.C. No. 6100 of 1996, against the order passed by the D.G.P.-cum-I.G. Patna whereby memorial filed by him was rejected and by order dated 19.8.1997, the Patna High Court quashed the Annexure-4 by which memorial filed by the petitioner was rejected and the matter was remitted back to the D.G.P.-cum-I.G. Patna for fresh consideration of memorial in accordance with law.

2. Consequence thereto Annexure-4 to the present writ application was passed by the D.G.P.-cum-I.G.P., Bihar Patna whereby the D.G.P. after considering the fact and circumstances of the case again rejected the memorial filed by the petitioner as contained in memo No. 1267 vide, order dated 1.4.1998. The said order as contained in Annexure-4 is under challenge in the present writ application.

3. The learned counsel for the petitioner confines his argument to the quantum of punishment only, It is submitted that the charges against the petitioner were not so grave and therefore, the order of punishment i.e., dismissal from service is too harsh considering the nature of the charge against him.

4. This Court order dated 5.4.1999, expressed its prima-facie, view that punishment imposed is grossly disproportionate to the misconduct alleged against the petitioner. In the facts and circumstances of the case, I am of the view that punishment awarded to the petitioner is disproportionate to the charges levelled against him.

5. In that view of the matter the order as contained in Annexure-4 so far as the quantum of punishment is concerned, is hereby quashed and the matter is remitted back to the D.G.P.-cum-I.G.P. to consider the case of the petitioner so far as only quantum of punishment is concerned and pass appropriate order in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

6. With the aforesaid observation this petition is allowed to that extent.