

## Subash Chandra Sah Vs The State of Jharkhand and Others

**Court:** Jharkhand High Court

**Date of Decision:** April 22, 2013

**Citation:** (2013) 3 JLJR 45

**Hon'ble Judges:** Aparesh Kumar Singh, J

**Bench:** Single Bench

**Advocate:** Shresth Gautam, for the Appellant; Saket Upadhayay, JC to AAG, for the Respondent

**Final Decision:** Dismissed

### Judgement

Aparesh Kumar Singh, J.

Heard learned counsel for the parties. The petitioner, who was a probationer constable, has come before this

Court against the Order No. 28/2006 dated 7.2.2006, issued by the Commandant, Indian Reserve Battalion, Jamtara Camp, JAP-1 Ranchi

Annexure-4, by which he has been discharged under Rule 668 of the Jharkhand Police Manual allegedly without any notice or any proceeding.

2. Petitioner on being declared successful after interview and physical test for recruitment of constable in Indian Reserve Battalion, Jamtara Camp,

for the JAP-1 joined at Jharkhand Armed Police-I, Doranda Ranchi on 03.05.2005 to undergo training meant for such constable of the Indian

Reserve Battalion. He attended training at Tatisilwai Camp on 10.05.2005, thereafter, at Padma Training Camp, Hazaribagh on 28.05.2005 and

left the training in June, 2005 on account of serious illness of his mother after submitting a leave application, according to him. He came across

paper notice contained at Annexure-I, which was published on 14/15 December, 2005 asking the petitioner among the list of 70 such constables,

who had left the training from JAP-I (sic) to report for duty, failing which action should be taken against them under Rule 668 of the Jharkhand

Police Manual. The petitioner was one of them at serial no. 22 and, therefore, according to him, vide Annexure-2 and 3, he had submitted

application for his joining through registered courier. Despite that he has been removed from service by the impugned order contained at

Annexure-4. Learned counsel for the petitioner submits that Rule 668 of the Jharkhand Police Manual is applicable to Executive Officer and not: to

police constable and secondly the respondents are not justifying by terminating the petitioner from probation even after he has responded to notice

Annexure-1, vide Annexures-2 and 3, in December, 2006 itself.

3. Learned counsel for the respondents-State, on the other hand, submits that Rule-668 of the Jharkhand Police Manual is also applicable to such

police Constables. This issue has squarely been decided by the learned Single Judge of this Court in the case of Rajesh Kumar Vs. State of

Jharkhand and Others, . In the said case also, the petitioner was constable, who had reported for duty in Indian Reserve Battalion, had left the

training centre without information. It is submitted that the petitioner was given notice after almost five months of desertion from training, but the

petitioner chose not to submit his joining and documents annexed on his behalf are only concocted documents. No proof of such notice has been

furnished by the petitioner to substantiate his contention that he had tried to submit his joining after issuance of Annexure-I.

4. I have heard learned counsel for the parties and have gone through the relevant materials on record. The petitioner, who was admittedly a

probationer constable in Uniformed Forces (Indian Reserve Battalion) JAP-I, was required to undergo scheduled training in which he was not

expected, as probationer, to leave training in between without any prior permission. Not only did the petitioner leave the training but also did not

join his duty and admittedly paper notice contained at Annexure-I was issued in respect of several probationer persons including the petitioner. The

documents annexed as Annexures-2 and 3 do not inspire confidence that they are genuine documents and even the dates mentioned therein are of

December, 2006. Rule 668 of the Jharkhand Police Manual as interpreted in the judgment relied upon by the respondents hold that a constable

would also be an executive officer. Rule 668 of the Jharkhand Service Manual relates to the power of the Controlling Officer to take action in

respect of the probationer.

5. In that view of the matter, this Court does not find any reason to interfere in the order passed by the respondents terminating the petitioner as

probationer from the Indian Reserve Battalion, JAP-I. Accordingly, this writ petition is dismissed.