

(2005) 05 JH CK 0051
Jharkhand High Court
Case No: Contempt Criminal No. 5 of 2004

Jharkhand High Court
(own motion)

APPELLANT

Vs

Babban Ram

RESPONDENT

Date of Decision: May 24, 2005

Citation: (2005) 2 BLJR 1556

Hon'ble Judges: Amareshwar Sahay, J

Bench: Single Bench

Advocate: None, for the Appellant; V. Shivnath and Birendra Kumar, for the Respondent

Judgement

Amareshwar Sahay, J.

The background of this proceeding is that the contemnor/ opposite party, Babban Ram, filed a writ petition being W.P. (S) No. 1744/2002, before this Court, seeking direction to declare him to have been promoted to the post of Sub-Inspector of Police, with effect from 20.8.1994, mainly on the ground that the respondent authorities had no jurisdiction to deny the petitioner the post of Sub-Inspector of Police, when he has already been exonerated from the charges made against him in the departmental proceedings No. 94/91 and 3/95.

2. It is relevant to quote few of the relevant and categorical statement of the petitioner made in the following paragraphs of the writ petition : ♦

"13. That except for the two pending departmental proceedings referred to above, the service record of the petitioner was outstanding. Petitioner had not earned any major punishment nor any adverse entry has been made in his Annual Confidential Reports.

16. That the petitioner was held guilty in both the proceedings. The petitioner filed Departmental Appeal before Deputy Inspector General of Police, both the Appeals filed by the petitioner were allowed and the petitioner was exonerated from the charges made in Departmental proceeding Nos. 94/91 and 3/95.

17. That the Deputy Inspector General of Police by his order dated 31.10.1998 while allowing the appeal also directed that in view of acquittal from the charges the petitioner was entitled to be promoted to the post of Sub-Inspector of Police.
25. That the petitioner submits that the respondents have no jurisdiction to deny the petitioner the post of Sub-Inspector of Police, when the petitioner has been exonerated from the charges made in Departmental proceeding No. 94/91 and 3/95."
3. Therefore, from the above quoted statements made by the petitioner and grounds taken in the writ petition, it appears that the whole case of the contemnor opposite party regarding his claim for being promoted to the post of Sub-Inspector of Police, is based on the specific statement that he has not earned any major punishment nor any adverse entry has been made in his confidential report and further that he has already been exonerated in the departmental proceedings initiated against him and, therefore, the respondent had no jurisdiction to deny him promotion to the post of Sub-Inspector of Police.
4. Controverting the statements made in the writ petition a counter affidavit was filed by the State duly sworn in by the Superintendent of Police, Chaibasa, i.e. respondent No. 4 in the writ petition.
5. When the writ petition was taken for final disposal, on behalf of the State it was submitted that the claim of the petitioner was absolutely wrong. The petitioner was not having blemish free record rather the petitioner was inflicted with two major punishments (Blackmark punishments) besides that he was inflicted with seven minor punishments. It was further stated that departmental proceeding No. 19/2001 is still pending against him for his suspicious conduct in an investigation.
6. Specifically been stated that against the order passed in the two departmental proceedings the petitioner had filed departmental appeals but both of his appeals have been rejected, by the Deputy Inspector General of Police, South Chhotanagpur, Ranchi and the punishment awarded to him in the departmental proceeding by the Superintendent of Police was affirmed by the Appellate Authority. The orders passed in the appeals have been annexed as Annexure-"A" and "B" to the Counter Affidavit. Therefore, it is apparent that the contemnor/opposite party made absolutely false and misleading statement in his writ petition and, therefore, in such a situation, this Court by order dated 17.3.2004, while dismissing the writ petition, issued notice to the writ petitioner as to why he be not proceeded for committing contempt of Court and also why a criminal prosecution be not initiated against him.
7. Pursuant to the said notice in the contempt proceeding the contemnor/ opposite party has filed his show cause. The main plea taken in his show causes are in paragraphs 5 and 6, which are quoted herein below :◆

- "5. That I never had not even in my rarest of dreams had any intention to mislead this Hon"ble Court. Whatever inconvenience to the Court has happened was unintentional and in mistaken belief of the certain facts.
6. That so far para 16,17 of the petition in W.P.(S) No. 1744/02 is concerned that was stated in bonafide belief and because of information derived from sources. So far para 25 in the affidavit portion is concerned that was filed without proper understanding and in bonafide belief as to no departmental proceeding is pending against me and so thinking that I have been exonerated from the charges. These para were always subject to the verification of the respondent authorities. That some statements could prove to be wrong but these were stated with bonafide belief of those to be correct."verification of the respondent authorities. That some statements could prove to be wrong but these were stated with bonafide belief of those to be correct."
8. The contemnor opposite party however tendered his unqualified apology for this conduct.
9. This is a very serious matter, the contemnor/opposite party is a member of State police force and is holding the post of Assistant Sub-Inspector of Police. From the averments made in the writ petition and the documents annexed thereto it appears that the petitioner has made statements on oath in his writ petition only to mislead this Court and with a malafide intention only to get a favourable order.
10. Though in the two departmental proceedings he was found guilty and punishment was awarded to him and thereafter, he filed departmental appeals before the Appellate Authority which were also rejected but the contemnor/opposite party is so dare devil that he made statements on oath in the writ petition before this Court that he was acquitted/exonerated from the charges in the departmental proceedings. The said statement shall certainly be termed as deliberate and intentional. By no stretch of imagination it can be said that he has made those statements under any mistaken belief or under any bonafide mistake.
11. Therefore, the show cause filed by the contemnor opposite party is hereby rejected. However, in the facts and circumstances of this case, at this stage this Court is not intending to take any action against the contemnor/opposite party. The matter is being referred to the Director General of Police, Jharkhand to take appropriate action in the matter against the contemnor/opposite party, Babban Ram in the facts and circumstances of the case and in accordance with law within a period of two months from the date of receipt/production of a copy of this order. The Director General of Police shall send compliance report to this Court immediately thereafter.
12. Let the office send a copy of this order, as well as the order dated 17.3.2004 passed in W.P. (S) No. 1744/2002, the copy of the writ petition alongwith annexure, copy of the counter affidavit, filed by the State alongwith annexure and the copy of

the show cause filed by the contemnor opposite party in this contempt proceeding to the Director General of Police for his needful in the matter.

13. Let the matter be listed again on 25th August, 2005.