

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 6342 of 2017

Anil Kumar Singh, son of Baleshwar Singh, resident of Shreya Enclave, P.O. Bariatu, P.S. Bariatu, District- Ranchi **... Petitioner**

-Versus-

1. State of Jharkhand through Principal Secretary, Home Department, Government of Jharkhand, Jharkhand Mantralaya, P.O. & P.S. Dhurwa, District- Ranchi
2. Director General of Police, South Chhotanagpur Division, Government of Jharkhand, Ranchi, Police Headquarters, D.P.R.D., Building, H.E.C. Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District- Ranchi
3. Inspector General of Police, South Chhotanagpur Division, Government of Jharkhand, Ranchi, Police Headquarters, D.P.R.D. Building, H.E.C., Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District- Ranchi
4. Deputy Inspector General of Police, Government of Jharkhand, Police Headquarters, D.P.R.D. Building, H.E.C. Dhurwa, P.O. Dhurwa, P.S. Jagannathpur, District- Ranchi **... Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner	:	Mr. Diwakar Upadhyay, Advocate
For the Respondent-State	:	Mr. Rahul Kamlesh, A.C. to SC.-VI

07/10.09.2020. Heard Mr. Diwakar Upadhyay, the learned counsel for the petitioner and Mr. Rahul Kamlesh, learned counsel for the respondent-State.

This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic. None of the parties have complained about any technical snag of audio-video and with their consent this matter has been heard on merit.

The petitioner has preferred this writ petition for quashing the order dated 16.10.2017 contained in Annexure-13 passed by the Director General of Police, Government of Jharkhand, Ranchi, whereby, the revision application preferred against the order passed by the Inspector General of Police, South Chhotanagpur Division, Ranchi dated 19.01.2012 has been affirmed.

The petitioner was appointed on 15.06.1984 on the post of Sub-Inspector of Police. On 19.04.2006, the wife of the petitioner died and the allegation was against the petitioner that he has shot his wife. First Information Report was

registered against the petitioner as Bariatu P.s. Case No. 59 of 2006, corresponding to G.R. No. 1301 of 2006 for the alleged offence under Section 302 of the Indian Penal Code and Section 27 of the Arms Act. The petitioner was taken into custody by the investigating authority. The petitioner was suspended from service on 29.04.2006. The show-cause was issued to the petitioner for the alleged offence of murdering his wife. The petitioner replied to the same to the effect that the matter is pending before the trial court and prayed that during the pendency of the trial, the departmental proceeding may be kept in abeyance. On 23.01.2006, a recommendation was made by the Sub-Divisional Police Officer-cum-Conducting Officer and forwarded a letter to the Senior Superintendent of Police, Ranchi requesting therein that the reply to the show-cause has been received, in which, the delinquent has prayed for keeping the departmental proceeding in abeyance, till the trial is concluded by the learned trial court. In the meantime, the petitioner was convicted and sentenced the petitioner to undergo life imprisonment in the said case vide judgment of conviction and order of sentence dated 11.05.2007 and 14.05.2007 respectively. Thereafter, the petitioner preferred a criminal appeal being Cr. Appeal (DB) No. 586 of 2007 before this Court, which was allowed and the petitioner was acquitted from the charge vide judgment dated 07.06.2017.

Mr. Diwakar Upadhyay, learned counsel for the petitioner assailed the impugned order on the ground that in the departmental proceeding, inquiry report was submitted only on the ground that the petitioner has been convicted by the trial court and without adducing any evidence in the departmental proceeding, the inquiry report was submitted. He further submits that the petitioner was not given any opportunity in the departmental proceeding and in that view of the matter, the departmental proceeding was against the principle

of natural justice. He also submits that in view of Annexure-5, which is a medical certificate, the petitioner was admitted in Ranchi Institute of Neuro-Psychiatry & Allied Sciences (RINPAS), Ranchi as he was suffering from mental illness (Schizophrenia). During the treatment of the petitioner, the departmental proceeding was concluded on 17.05.2010. From the medical certificate contained in Annexure-5, it appears that during that period the petitioner was being treated in RINPAS. He further submits that the petitioner was acquitted in the criminal case by the order of this Court and, thereafter, he has filed a revision application, which was rejected by the Director General of Police, Ranchi contained in Annexure-13 on the ground that the High Court has not directed for reinstatement in service while acquitting the petitioner in the criminal case. He further submits that it is well known that in the criminal case, the order of reinstatement in service cannot be passed.

Per contra, Mr. Rahul Kamlesh learned counsel for the respondent-State submits that the petitioner has been acquitted on technical ground. He further submits that his acquittal was not on contest and in that view of the matter, the petitioner cannot be reinstated in service. He also submits that the departmental proceeding and criminal proceeding are two different subjects and parameters of both the proceedings are different. Merely on the ground that the petitioner has been acquitted in the criminal case by the High Court, the case of the petitioner cannot be considered for reinstatement. He further submits that on this ground, there are judgments of the Hon'ble Supreme Court.

Having heard learned counsel for the parties, the Court finds that in the departmental proceeding when the inquiry report was submitted, the petitioner was being treated in RINPAS, which is apparent from Annexure-5. In the inquiry report contained in Annexure-6, this aspect of the matter has been accepted that

the petitioner was being treated in RINPAS and that is why reply to the show-cause has not been received. Only on the ground of conviction by the trial court, the inquiry report has been submitted saying that the petitioner is found guilty. After acquittal by the High Court in the criminal case, the Director General of Police has rejected the revision application of the petitioner on the ground that the High Court has not directed for reinstatement of the petitioner in service while acquitting the petitioner in the criminal case. It is well known that the High Court while acquitting the petitioner has decided the criminal case only and the authority concerned has to consider the reinstatement of the petitioner in service while passing a reasoned order. From the inquiry report, it transpires that the petitioner was being treated in RINPAS and the inquiry report has been submitted only taking into consideration this aspect of the matter that the petitioner has been convicted by the trial court. The reason assigned by the Director General of Police, Ranchi while rejecting the claim of the petitioner does not sound good.

In view of the above facts, the writ petition succeeds and, accordingly, the impugned order dated 16.10.2017 contained in Annexure-13 passed by the Director General of Police, Ranchi is quashed. The matter is remitted back to the Director General of Police, Ranchi to consider the case of the petitioner afresh and pass a reasoned order.

With the aforesaid observation and direction, this writ petition stands allowed and disposed of.

(Sanjay Kumar Dwivedi, J.)

Ajay/