

Serial No. 28
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 214 of 2022

Date of Order: 09.02.2023

Shri Jerang A. Sangma Vs. Inspector General of Police & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. C.C.T. Sangma, Adv.
vice Mr. T.T. Diengdoh, Sr. Adv.

For the Respondent(s) : Mr. B. Bhattacharjee, AAG with
Mr. A.H. Kharwanlang, GA

i) Whether approved for reporting in Law journals etc: Yes/No

ii) Whether approved for publication in press: Yes/No

JUDGMENT AND ORDER (ORAL)

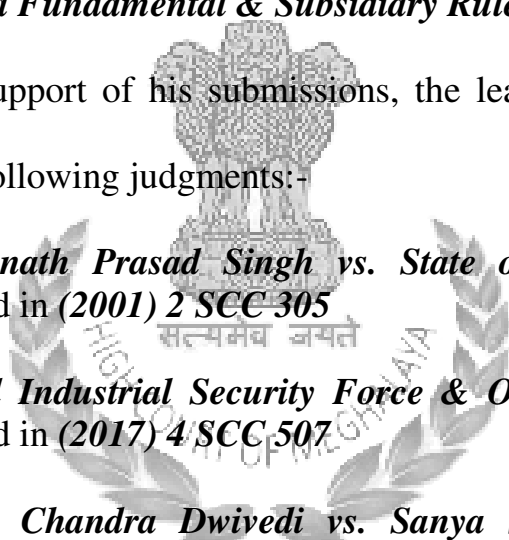
1. The writ petitioner being aggrieved by the orders passed by the respondent No. 2 and 3, whereby he has been dismissed from service, is before this Court seeking directions for the respondents to reconsider the quantum of punishment inflicted upon him.

2. The brief facts of the case are that the petitioner had entered into service in the Police Department in the year 1992 as Assistant Sub- Inspector (ASI), and after being promoted to the post of Un-Armed Branch Sub-Inspector (UBSI) had been serving in the Department for 30 years, till his dismissal from service. Disciplinary Proceedings had been drawn up against the petitioner on 23.08.2021 on 3 Articles of Charge which were; unauthorized absent from duties, gross misconduct, violation of lawful direction from superiors, apart from negligence and dereliction of duties, which were stated to be in violation of Rules 3, 3A and 3B of the *Meghalaya Civil Services (Conduct) Rules, 2019*. Thereafter, on conclusion of the said proceedings, wherein the petitioner admitted to all the charges as framed, he was dismissed from service. Though, an appeal had been preferred, the dismissal order was upheld by the respondents.

3. Mr. C.C.T. Sangma, learned counsel for the petitioner does not dispute that fact that the petitioner had pleaded guilty to all the charges, nor does he question the Disciplinary Proceedings for lack of opportunity to defend himself or otherwise. The prayer before this Court, is only on the quantum of punishment that has been inflicted upon the petitioner, which he contends that taking into account the long years of service and the nature of infractions, the punishment of

dismissal from service, is too harsh, and on this point deserves some consideration from this Court.

4. The learned counsel also argued that, for being absent from duties, the only punishment that could have been inflicted was to deprive the petitioner from Pay and Allowances for the periods of absence. He further contended that at the most, punishment of compulsory retirement, could have been given as provided in FR-57 of the *Meghalaya Fundamental & Subsidiary Rules, 1984*, to ensure sustenance. In support of his submissions, the learned counsel has relied upon the following judgments:-

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- i) ***Bishwanath Prasad Singh vs. State of Bihar & Ors.***
reported in (2001) 2 SCC 305
 - ii) ***Central Industrial Security Force & Ors. vs. Abrar Ali***
reported in (2017) 4 SCC 507
 - iii) ***Brijesh Chandra Dwivedi vs. Sanya Sahayak & Ors.***
reported in (2022) 4 SCC 189

5. The learned counsel concludes his submissions by submitting that the Hon'ble Supreme Court, taking into account such cases, had interfered and passed orders granting limited reliefs as has been prayed by the writ petitioners in the cases as cited above. He therefore prays to this extent, that this Court pass such orders for reconsideration of the punishment that had been inflicted upon the petitioner.

6. Mr. B. Bhattacharjee, learned AAG assisted by Mr. A.H. Kharwanlang, learned GA for the State respondents has drawn the attention of this Court to the affidavit filed on behalf of the respondents, and submits that the proceedings which had culminated at the dismissal of the writ petitioner is not a one-off incident, but in fact on 10 different occasions since the year 1999, the petitioner was a habitual absentee, for which he had already been imposed 5 minor punishments and 2 major punishments for his misconduct.

7. The learned AAG has also submitted that the petitioner failed to discharge his duties as assigned, and whenever called upon, refused to receive office orders and communications, and has kept 20 cases pending for investigation for a long time, without justifiable reasons, which has jeopardized the entire legal process. He further submits that Rule-7 of the *Meghalaya Services (Discipline & Appeal) Rules, 2011*, has also provided for such punishment, and with there being no irregularities in the proceedings and the charges found all proved, the punishment as inflicted was commensurate with the misconduct of the petitioner.

8. I have heard the learned counsel for the parties, considered their submissions and also examined the materials on record.

9. Though, the writ petitioner does not question the proceedings, and has come only against the quantum of punishment, it would be expedient, however, to look at the Statement of Articles of Charge frames against him, which are reproduced hereinbelow:-

“ARTICLE-I

UBSI Jerang A Sangma is found unauthorised absent from duty w.e.f. 9th August 2021 till date as reported by OC Tura PS which has reference to Tura PS GDE No. 12 Dtd. 10/08/2021. Whereas, in the previous instance UBSI Jerang Sangma was found unauthorized absent from duty w.e.f. 15th July, 2021 to 17th July, 2021 as reported by OC Tura PS. This has a reference of Tura PS GDE No. 06 Dtd. 15/07/2021. Further, based on the report submitted by OC Tura P vide WT No. T/PS/WT/Vol. I/67 Dtd. 04/08/2021 UBSI Jerang A. Sangma is found to be irregular and missing from the PS on multiple instances. His misconduct prima facie, is a violation of Rule 3 & 3B of the Meghalaya Civil Services (Conduct) Rules, 2019.

ARTICLE-II

UBSI Jerang A. Sangma has kept various cases pending of Tura PS viz. (i) C/No. 68(03)15 U/S 397 IPC (ii) C/No. 121(05)15 U/S 188/506/34 IPC (iii) C/No. 124(05)15 U/S 384/507/511 IPC (iv) C/No. 141(06)15 U/S 507 IPC (v) C/No. 164(07)15 U/S 324/34 IPC (vi) C/No. 169(07)15 U/S 365 IPC (vii) C/No. 210(08)15 U/S 323/354/392/34 IPC (viii) C/No. 87(07)19 U/S 323/506 IPC (ix) 170(12)20 U/S 379 IPC & (x) C/No. 172(12)20 U/S 457/380 IPC (xi) C/No. 77(04)2015 U/S 380 IPC (xii) C/No. 200(07)2015 U/S 427/506 IPC (xiii) C/No. 206(08)2015 U/S 380 IPC and (xiv) C/No. 220(08)2015 U/S 379 IPC, Dalu PS viz. (i) C/No. 04(02)2014 U/S 379 IPC (ii) C/No. 04(02)2015 U/S 379 IPC (iii) C/No. 07(03)2015 U/S 409 IPC (iv) C/No. 01(02)2017 U/S 14 Foreigners Act, 1946 (v) C/No. 06(03)2017 U/S

188/34/353/506 IPC (vi) C/No. 07(03)2017 U/S 380 IPC No. (vii) C/No. 10(04)2017 U/S 304/326/34/341 IPC and (viii) C/No. 23(06)2017 U/S 427/447 IPC and Phulbari PS viz. (i) C/No. 53(12)2015 U/S 379 IPC. In this connection, a W.T. message vide No. CR/IV-15/7-2021/V/1133 Dated 06.08.2021 was sent to report before the undersigned along with all up to date case diaries on 09/08/2021 at 11:00 AM sharp which was delivered and acknowledged by him in his Whatsapp no. 9366429935 on 06/08/2021; but UBSI Jerang A. Sangma never turned up. This conduct, prima facie, amounts to gross misconduct, violation of lawful direction of the Authority which is in violation of Rule 3 & 3A of Meghalaya Civil Services (Conduct) Rules, 2019.

ARTICLE-III

UBSI Jerang A. Sangma was contacted by Shri Bitching N. Marak, CI, Sadar, Tura and by Shri Jiu R. Sangma, OC Tura PS over mobile phone on 9th August, 2021 but there was no any response from him nor he bothered to call back his seniors. Further several phone calls were made by PCR (Tura) to inform him in his mobile no. for appearance before the undersigned but UBSI Jerang A. Sangma did not respond to any call nor he called back. This conduct, prima facie, amounts to gross misconduct, negligence and dereliction of duty and is in violation of Rule 3, 3A & 3B of Meghalaya Civil Services (Conduct) Rules, 2019.”

10. A perusal of the Statement of Articles of Charge as framed reveals that the petitioner apart from being absent from duties, remained absent in spite of receiving messages, and further Article-II has enumerated cases pending in his charge, which are innumerable. Without elaborating; the Articles as framed and admitted by the petitioner, are no doubt serious and grave, considering him to be an

officer in a disciplined force in charge of maintaining law and order, rendering valuable assistance to the criminal justice system.

11. Though, the punishment of dismissal from service may seems harsh, but in consideration of the entire track record of service of the petitioner, apart from his insubordination, the prayer cannot be considered. As observed above, the petitioner being a member of a disciplined force, he is expected to maintain a higher standard of efficiency and if leniency is shown to such a delinquent employee, it will send a wrong message to the other member of the force. The decisions as placed by the learned counsel for the petitioner though having persuasive value, however, will have no impact on the present case, considering its peculiar facts and circumstances.

12. In the result, no interference is called for and this writ petition is accordingly dismissed.

JUDGE

Meghalaya
09.02.2023
"V. Lyndem-PS"