

IN THE HIGH COURT OF JHARKHAND, RANCHI

W.P.(S) No. 7814 of 2013

Nilima Tirkey, daughter of late Ignis Tirkey, resident of Village, Uchari, PO Mander, P.S Mander, District Ranchi, Jharkhand **Petitioner(s)**

-- **Versus** --

1.State of Jharkhand
2.Director General cum Inspector General of Police, Jharkhand, Ranchi, Police Head Quarter, PO and PS Dhurwa, District Ranchi
3.Inspector General of Police, South Chhotanagpur Region, Doranda, PO Doranda, PS Doranda, District Ranchi
4.Deputy Inspector General of Police, Kolhan Range, Chaibasa, PO Chaibasa, PS Chaibasa, District West Singhbhum
5.Superintendent of Police, Chaibasa, PO Chaibasa, PS Chaibasa, District West Singhbhum, Jharkhand **Respondent(s)**

CORAM: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner(s) :- Mr. Diwakar Upadhyay, Advocate
For the State :- Ms. Divya, Advocate

11/31.01.2025 This matter has been assigned to this Bench and that is how it has been listed before this Court.

2. Heard the learned counsel for the petitioner as well as the learned counsel appearing on behalf of the respondent State.

3. The prayer in this petition has been made for quashing of the order dated 22.02.2013 passed by disciplinary authority as well as appellate order dated 22.11.2013 passed by the appellate authority whereby the petitioner has been reverted to the post of police constable in the basic salary for three years. The prayer is also made to restore the position of the petitioner.

4. Mr. Diwakar Upadhyay the learned counsel appearing on behalf of the petitioner submits that the petitioner was initially appointed as police constable on 22.11.1994 and in due course of her service promoted to the post of Assistant Sub Inspector of Police in 2006. He submits that all of a sudden, when the petitioner was posted as Assistant Sub Inspector of Police in West Singhbhum, Chaibasa a charge memo was served wherein it was alleged that during the investigation of Sadar P.S. Case No.6 of 2006 it came out that the

petitioner was in affair with the accused Rajendra Lakra and probably having physical relationship with the accused Rajendra Lakra. He submits that further it has been alleged that in absence of any divorce she has coerced Rajendra Lakra to marry the petitioner and thereafter when she was not successful a complaint case was filed against Rajendra Lakra. He submits that on this vague charge, the disciplinary proceeding was initiated and the petitioner participated and the enquiry officer has found the petitioner guilty and pursuant to that, the said punishment order has been passed. He submits that however the petitioner has already obtained divorce in the year 2005. He further submits that he is not knowing as to whether criminal case is still pending or not. He then submits that the enquiry is also not based on any evidence and in view of that on the ground of perversity of the enquiry proceeding, the prayer made in the petition may kindly be allowed.

5. The learned counsel for the State opposed the prayer and submits that period of punishment is already over and her position is already restored. She submits that charge is for moral turpitude and sufficient evidence has been brought on record and two witnesses have been examined in the enquiry proceeding and the letter exchanged between the petitioner and Rajendra Lakra is also brought in the enquiry proceeding. She submits that on sufficient ground the enquiry officer has found her guilty.

6. It is an admitted position that punishment was only for three years and that period has already been over. Thus, the position of the petitioner is already restored.

7. The High Court sitting under Article 226 of the Constitution of India cannot re-appraise the evidence which has already been scrutinized by the enquiry officer as well as by the disciplinary authority and the appellate authority. The law is well settled that if the findings are perverse and not supported by any evidence on record or the evidence recorded at the

homestead trial are such which no reasonable person would have reached it would be open to the High Court to interfere in the matter. In the inquiry proceeding, two witnesses have been examined. The letters exchanged between the petitioner and Rejendra Lakra was also on the record in the inquiry proceeding and in view of that, the inquiry officer has found the petitioner guilty and pursuant to that, the said punishment order has been passed against the petitioner. There is no doubt that the Hon'ble Supreme Court in the case of ***Joseph Shine V. Union of India, AIR 2018 SC 4898***, has struck down section 497 of the IPC however that provision was intact when the charge against the petitioner was framed and that judgment has come later on.

8. Morality is a fibre, which runs through every walk of human life. In fact, bereft of the moral fibre, the dignity, which the human beings command, itself becomes shaky. Behind many acts, which constitute crimes or the civil wrongs or acts of misconduct, there is a hidden bankruptcy of morality. In contrast, behind every act, permitted in a civilized society, there is an element of morality. The only difference is that sometimes it is patent, i.e., clearly visible and on other occasions, it is latent, or hidden inside. Thus, morality is an important aspect in a civilized society and the petitioner happened to be a member of a disciplined force and that allegations are made that she has falsely lodged the case against Rajendra Lakra and the charge has already been proved and pursuant to that for such charge the punishment is of only reversal to basic pay for three years has been imposed. Thus, the charge is also not disproportionate and the authority concerned has passed minor punishment. No case of interference is made out.

9. W.P.(S) No.7814 of 2013 is dismissed.

(Sanjay Kumar Dwivedi, J.)

SI/
A.F.R.