

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 3392 of 2010

Ramesh Thakur..... Petitioner.

Versus

The State of Jharkhand & Ors..... Respondents

Coram: Hon'ble Mr. Justice Amareshwar Sahay

For the Petitioner : Mr. M.S.Mittal, Sr. Advocate

Mr. N.K.Pasari, Advocate

For the Respondents : Mr. Rajendra Kirshna, Advocate

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2/18.08.2010

Heard the parties.

The main ground of the challenge of the initiation of a departmental proceeding and the charge sheet is that the petitioner who while exercising quasi judicial powers took certain decision and against such decision no departmental proceeding can be initiated. Reliance has been placed of a decision of the Supreme Court in the case of "*Zunjarrao Bhikaji Nagarkar-versus- Union of India & Ors, reported in (1999) 7 SCC 409.*"

The Supreme Court in the case of "*Union of India & Ors.- versus- K.K.Dhawan, reported in AIR 1993 SC 1478*" has held that the Government is not precluded from taking the disciplinary action against its employee even with regard to quasi judicial order.

The decision relied by the counsel for the petitioner is not applicable in the facts and circumstances of this case since in the case before the Supreme Court, the departmental proceeding was initiated against a delinquent for the allegation that he committed error of law and, therefore, the Supreme Court held that the error of law cannot constitute any misconduct whereas in the present case the important fact was alleged to have been deliberately overlooked by the petitioner causing huge pecuniary loss to the Electricity Board.

A Division Bench of this Court in the case of "*Mithilesh Kumar Singh-versus-Government of India through Central Vigilance*



Commissioner, New Delhi, reported in 2005 (1) JCR (Jhr.) has held that at initial stage the tribunal or court has no jurisdiction to go into the correctness or truth of the charge. The tribunal or court could not take over the function of the Disciplinary Authority. The truth or otherwise of the charge is a matter for Disciplinary Authority to go into.

In this view of the matter, I am not inclined to interfere with the initiation of the departmental proceeding.

The petitioner may file his written statement in reply to the charge sheet served on him. Consequently, finding no merit, this writ petition is dismissed.

sd/- Amarendra Swar Sahay, J.

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(Designated under Para 3(a) of J.S.C. Rules)
Authorised by S 7 Act of 1992

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