

(1990) 12 PAT CK 0009

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1104 of 1987

Amar Kant Choudhary

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 11-12-1990

Acts Referred:

Citation : (1992) 2 PLJR 632

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : P.N. Singh, Amar Nath Mishra, Arun Kr. Singh and Basan Roy, for the Appellant; Nilima Thakur, for the Respondent

Final Decision : Allowed

Judgement

G.C. Bharuka, J.—The present writ application has been filed by the Petitioner for quashing of the order dated 3.4.1986 passed by the Respondent Managing Director, Industrial Area Development Authority, Patna by which the Petitioner has been dismissed from his service.

2. At the material time, the Petitioner was posted as the Senior Accounts clerk cum cashier in the office of I.A.D.A., Ranchi. On 12.3.1977, the impugned departmental proceedings were initiated against him and he was suspended from service. On 21.8.1978 the Petitioner was served with a charge sheet containing various charges against him. Since the disciplinary proceeding was kept pending for a long time therefore, the Petitioner filed a writ application in this Court being C.W.J.C. No. 4991 of 1982, inter alia, challenging the order of suspension and continuance of the departmental proceedings. The said writ application was disposed of by the order dated 26.4.1983 (Annexure 2). By this order, this Court directed for disposal of two criminal cases being T.R. No. 1948 of 1982 and T.R. No. 1578 of 1982 within six months from the date of order, which are pending before the Chief Judicial Magistrate, Patna. These cases related to the same charges which are the subject matter of the present disciplinary proceedings. It has been stated in paragraph 16 of the writ application that the Petitioner was

acquitted in both the criminal cases since the Respondents could not prove the allegations levelled against the Petitioner. On 19.2.1985 the suspension of the Petitioner was revoked by the disciplinary authority concerned but the disciplinary proceedings were kept alive. Faced with the situation, the Petitioner preferred Anr. writ application in this Court being C.W.J.C. No. 2962 of 1985 again challenging the continuance of disciplinary proceedings for such a long time. This writ application was disposed of by an order 12.7.85 (Annexure 5) with a direction that the proceeding must be concluded within a period of two months from the date of order. Thereafter, though the Conducting Officer after holding due enquiry submitted a report dated 11.9.1985 exonerating the Petitioner from all the charges but the proceedings could not be concluded by 12.9.1985, the date by which it ought to have been concluded as per the order of this Court (Annexure 5). This fact has not been controverted by the Respondents. But, since according to the authority, the Conducting Officer had not held the enquiry as per the required procedure therefore, a second enquiry was directed to be held by Anr. officer. As a result of the second enquiry as well, the charges leveled against the Petitioner could not be sustained and again he was exonerated of the charges. This report is dated 24.3.1986 and has been filed by the Respondents as Annexure C/2 to the counter affidavit.

3. In spite of the acquittal of the Petitioner by the criminal Court and the enquiry reports of two Conducting Officers specifically holding that the charges against the Petitioner could not be proved still the Respondent Managing Director by his order dated 24.3.1986 again directed the Conducting Officer to hold further enquiry and submit a fresh report after taking into account certain documents and materials. Pursuant to this order, which is Annexure D/2 to the counter affidavit, the Conducting Officer held some enquiry and submitted a report holding the Petitioner guilty of various charges. On the basis of this report, Respondent No. 2 acting as a disciplinary authority, dismissed the Petitioner from service. This order is Annexure 1 to the writ application. It has been specially asserted by the Petitioner that no opportunity of hearing or participating in the further enquiry held by the Conducting Officer pursuant to the order dated 24.3.1986 was granted to the Petitioner, though, it was pursuant to this purported enquiry that he was held to be guilty and had been subjected to the impugned punishment. This fact has not been denied in the counter affidavit. In this view of the matter, the impugned order has to be held as bad, illegal and without jurisdiction having been passed in violation of the basic principle of natural justice.

4. Accordingly, I quash the impugned order of dismissal as contained in Annexure 1 to the writ application. The Petitioner will be deemed to be in continuous service and will be entitled to all his arrears of salary and other benefits to which he may be entitled as per the service conditions.

5. This writ application is allowed. There will be no order as to cost.