
(2006) 07 PAT CK 0033
In the Patna High Court
Case No : CWJC No. 11139 of 2005

Arun Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-07-2006

Acts Referred:

Citation : (2006) 3 PLJR 471

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Ashok Kumar Choudhary, for the Appellant; Samresh Kr. Singh, for the Respondent

Judgement

Barin Ghosh, J.—Petitioner was then working as Ameen and posted at Muzaffarpur. A proceeding was initiated against him for his misconduct. Charges were framed and furnished to him. Subsequent thereto a punishment order was passed reverting the petitioner to the lowest scale to which he was entitled as Ameen. The petitioner challenged the said punishment order by filing C.W.J.C. No. 2536 of 2004. In the counter affidavit filed to the said writ petitioner it was contended that after completion of the enquiry proceedings enquiry report was submitted to the Disciplinary Authority and thereupon a second show cause was issued and, ultimately, the punishment order was passed. It was contended by the petitioner that there is no such enquiry report as the same was never furnished and no second show cause notice was issued. The Court, as a fact, found that no enquiry report was furnished to the petitioner and at the same time no second show cause notice was given to the petitioner which suggests that no enquiry was held. The court, thus, quashed the punishment order. Subsequent thereto a charge-sheet was issued wherein it was held out that the petitioner, when he was working at Jamshedpur, absented from duties unauthorisedly. Petitioner gave a reply thereto and without holding any enquiry a major punishment order has been passed against the petitioner once again lowering him to the lowest scale to which he was entitled as Ameen. The present

writ petition has been filed challenging the said order.

2. In the counter affidavit, surprisingly the respondents have taken a stand that the present application is barred by res judicata. The respondents, it seems, should be sent for legal training for the meaning of the word res judicata. The learned counsel for the respondents submitted that he wants to file a supplementary affidavit and, accordingly, sought for adjournment. I have refused to grant such adjournment, in as much as the punishment order does not hold out that any enquiry was made and thereupon any enquiry report was submitted and, accordingly, filing of the supplementary affidavit will be a pure and simple wastage of time.

3. The rules governing the service condition of the petitioners directs that a full-fledged enquiry must be held when it is decided to impose a major punishment. There is no dispute that a major penalty has been imposed but without holding any enquiry. Having regard to the fact that the some of his seniors are after the petitioner and, accordingly, have been acting in a manner to affect the petitioner financially as well as morally, while setting aside the impugned order of punishment, I impose a cost of twenty thousand rupees upon the State which shall be paid to the petitioner and which will be recovered from such Officer/ Officers of the Department who had acted in a manner which is not only unwarranted but also unthinkable. In as much as the punishment order has been set aside, it is made clear that any order passed subsequent thereto for enforcement of that order automatically stands quashed.