
(2013) 08 PAT CK 0018

In the Patna High Court

Case No : LPA No. 838 of 2013 in CWJC No. 3998 of 2012 with IA 4853 of 2013
in LPA No. 838 of 2013

Arvind Kumar Singh @ Arvind Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-08-2013

Acts Referred:

Constitution of India, 1950 — Article 226
Penal Code, 1860 (IPC) — Section 120B, 201, 302

Citation : (2013) LabIC 4597 : (2013) 4 PLJR 390

Hon'ble Judges : Rekha Manharlal Doshit, C.J; Ashwani Kumar Singh, J

Bench : Division Bench

Advocate : Bhubneshwar Prasad, for the Appellant; Subodh Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Rekha Manharlal Doshit, C.J.

Re. Interlocutory Application No. 4853 of 2013

1. Delay of 434 days occurred in filing the Letters Patent Appeal is condoned. Interlocutory Application stands disposed of.

Re. Letters patent Appeal No. 838 of 2013

2. Feeling aggrieved by the order dated 21st March, 2012 made by the learned single Judge in CWJC No. 3998 of 2012, the writ petitioner has preferred this Appeal under Clause 10 of the Letters Patent.

3. It appears that the appellant, a Police Constable in Bihar Police Service, was accused of offences punishable u/s 302 read with Sections 201 & 120B of the Indian Penal Code in Amarpur P.S. Case No. 26/06. Pursuant to the said accusation, a departmental proceeding was initiated against the appellant. After due departmental proceeding, under order dated 31st July, 2008 made by the

Superintendent of Police, Banka, the appellant had been dismissed from service. The order of dismissal was confirmed in departmental appeal as well as in memorial before the Director General of Police on 23rd July, 2009. Since then, under the judgment and order dated 22nd February 2010 passed by the learned trial Judge in Sessions Trial Case No. 750/2008/Tr. No. 168/2010, the appellant has been acquitted by giving him benefit of doubt. The trial Judge has noticed that the offence in question was committed by the family members of the victim and the informant also was a member of the family and the son of the victim. The informant and the other witnesses having become hostile, the court had to acquit the accused by giving him the benefit of doubt.

4. In view of his acquittal in the criminal trial, the appellant approached this Court under Article 226 of the Constitution in above CWJC No. 3998 of 2012 to challenge the order of dismissal from service. The learned single Judge has relied upon the judgment of the Hon'ble Supreme Court in the matter of Union of India and others Vs. Shri Bihari Lal Sidhana, and has dismissed the Writ Petition. Therefore, this Appeal.

5. Learned advocate Mr. Bhubneshwar Prasad has appeared for the appellant. He has submitted that the appellant, being accused in a criminal trial, had been dismissed from service. In view of his acquittal in the criminal trial, the order of dismissal warrants reconsideration. In support of the submission he has relied upon the judgment of this Court in the matter of Saheb Singh @ Saheb Prasad Singh Vs. State of Bihar and Others,

6. In the above judgment, the learned single Judge held that the order of dismissal from service made pending the criminal trial required reconsideration in view of acquittal in the criminal trial by giving benefit of doubt.

7. We may note here that the appellant has not been dismissed from service merely on account of the criminal trial pending against him. The order of dismissal from service made on 31st July, 2008 is self-explanatory. Pending the trial, a disciplinary proceeding was initiated against the appellant in respect of the incident in question. The appellant had been given full opportunity of defence. The enquiry officer recorded finding of guilt against the appellant. Pursuant to the finding of guilt recorded against the appellant, the disciplinary authority dismissed the appellant from service. In our view, once a proper disciplinary proceeding had been conducted against the appellant, the appellant was found to be guilty of the alleged misconduct. The impugned order of punishment does not call for reconsideration on account of the appellant's acquittal by giving him benefit of doubt in the criminal trial.

8. It is well settled that the purpose of, the scope of enquiry and the standard of proof in a disciplinary proceeding are entirely different from a criminal trial. Stringent standard of proof beyond doubt required in a criminal trial does not apply to the disciplinary proceeding. The evidence which may not be admissible in a criminal trial can be considered in a disciplinary proceeding. Hence, the

appellant's acquittal in the criminal trial by giving him benefit of doubt is of no consequence as far as the punishment is imposed upon the appellant in a disciplinary proceeding.

9. No other contention is raised before us. Appeal is dismissed in limine.