
(2009) 01 PAT CK 0069

In the Patna High Court

Case No : LPA No"s. 1030, 132, 1035, 1036, 1037, 1040 and 1043 of 2008

Bindeshwari Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 12-01-2009

Acts Referred:

Citation : (2009) 3 PLJR 653

Hon'ble Judges : C.K. Prasad, Acting C.J.;Ravi Ranjan, J

Bench : Division Bench

Advocate : Chandrashekhar Singh, Gyanendra Kumar Singh and Abhay Kumar Sinha, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

1. Writ petitioners - appellants aggrieved by the order dated 1st October, 2008 passed by the learned Single Judge in CWJC. No. 12645 of 2006 and analogous cases dismissing the writ petitions, have preferred these appeals under Clause - 10 of the Letters Patent.

2. Writ petitioners - appellants (hereinafter referred to as the petitioners) filed the writ petitions challenging the show -- cause notice as to why their services be not terminated and some of the petitioners challenged the order by which their services were terminated. All these writ applications were heard together and have been disposed of by the common judgment.

3. The petitioners are Night - Guards, employed by the Bihar State Co-operative Marketing Union Limited. They were working at various depots. The activities of the depots have come to an end and, accordingly, their services were dispensed with. The learned Single Judge has found that the utility of Night-Guards has lost its relevance and, in fact, the Bihar State Co-operative Marketing Union Limited has no property which requires to be protected by the Night-Guards. Accordingly, the learned Single Judge did not interfere either with the order of termination or the show -cause notice. While doing so, he has observed as follows:

It is a case where a large work force has lost its relevance in the back ground that the object and purpose for which the appointment of these petitioners was made in haste has lost its meaning down the line. If the view of the courts expressed in some of the decisions noticed above is taken into consideration, then this Court has difficulty in holding that the petitioners cannot be terminated from their services without holding a departmental enquiry or before they reach the age of superannuation. If the State or its functionaries can take decisions for termination of the services of permanent employees in the given circumstances then it cannot be gain said that a co-operative body does not have this right.

The ground reality is that all the depots and activities of the society have withered away and the activity has narrowed down to the Headquarter. The Body in question is surviving on rent and some dues which they were drawing from the property rented out and they have no need for these night guards for protecting any property. Not only this, BISCOMAUN has not been paying salary to its employees from the year 1995 onwards and they are in deep financial distress, struggling to survive. They do not have capacity to sustain such a large work force nor any purpose is being served for retention of the petitioners in the organization.

4. Mr. Chandrashekhar Singh, Senior Counsel appearing on behalf of the petitioners submits that the State government has taken a policy decision to revive the depots and went to the extent of saying that in case of loss, it shall be met by the State government and in that view of the matter, services of the Night-Guards ought not to have been dispensed with.

5. We do not find any substance in the submission of the Senior Counsel Mr. Chandrashekhar Singh. The fact of the matter is that the depots carry out no activities and in that view of the matter, the BISCOMAUN did not err in dispensing with the services of Night - Guards which has lost its utility.

6. We do not find any error in the order impugned. Appeals stand dismissed in limine.