

(2001) 01 PAT CK 0019
In the Patna High Court
Case No : L.P.A. No. 698 of 1999

Chandra Shekhar Prasad and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-01-2001

Acts Referred:

Civil Services (Classification, Control and Appeal) Rules — Rule 55A

Citation : (2001) 2 PLJR 2

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kumar Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present letters patent appeal has been preferred against the order of the learned single Judge dated 6th May, 1999, passed in C.W.J.C.No. 10066 of 1998, by which the learned writ court, in view of the fact that the impugned order had been passed after following the procedure in terms of Rule 55A of the Civil Services (Classification, Control and Appeal) Rules (hereinafter referred to as the "Rules"), refrained from interfering with the impugned order by which the appellants have been directed to refund the amount of loss caused due to their negligence to the State exchequer. The contention of the learned counsel for the appellants is that appellant no.1 during the relevant period was posted as Executive Engineer at Muzaffarpur and appellant no. 2 was posted as Assistant Engineer. Other appellants were posted as Junior Engineers. In the year 1995-96, the appellants were entrusted with earth work in Tirhut main Canal from distance point no. 704 to 790 and other repairing work. As the work had not been completed, the then Chief Engineer, Water Resources Department, Muzaffarpur recommended to take departmental action against the appellants, as difference of 86,76,305 cubic ft. was found in the quantity of the earth work done.

2. According to the learned counsel, the appellants were proceeded without any charge sheet being served upon them and without initiating a departmental

proceeding and, as such, the same was vitiated.

3. From the order of the learned writ court it would clearly transpire that on the recommendation of the Chief Engineer for initiating a departmental proceeding, a flying squad was constituted, which inspected the site and after enquiry submitted a report on 11.5.96 wherein a prima facie case of misconduct was found against the appellants. A copy of the report of the flying squad was served on the appellants and an explanation was called for. The appellants submitted their explanation and the same was considered by the State Government on 26.8.96 and it was again decided that the flying squad will again make an inspection in presence of the delinquent officer. A fresh inspection was made and the appellants were participated in the same from 6.9.96 to 12.9.96. Thereafter, an enquiry report was submitted wherein out of 17 officers alleged, 6 were found prima facie guilty of misconduct and accordingly a memo of charge was served upon the appellants and they were asked to show cause. The aforesaid show cause is appended as Annexure-1 to the writ petition. The appellants filed their reply to the show cause notice and after consideration of the same, the impugned order has been passed on the ground of monetary loss caused to the Government because of excess earth shown by the appellants and a direction had been issued to recover the amount from the appellants as mentioned in the impugned order.

4. The contention of the appellants that no adequate opportunity had been provided to them does not stand vitiated by the discussion as made above. They had ample opportunity, a copy of the inspection report had already been furnished to them, charges were served on them, show cause had been considered and a fresh inspection was made in their presence. As these were the only requirements for proceeding against the appellants under Rule 55A of the Rules, as such, to our mind the learned writ court rightly unsuited the appellants, as nothing could be brought on the record to substantiate the argument of the appellants that the procedure required to be adopted for a proceeding u/s 55A of the Rules had not been complied with rather on the contrary the facts go to prove that the same had been complied with in its totality. We do not find any merit in the present letters patent appeal and the same stands dismissed being devoid of merit.