
(2004) 09 PAT CK 0099
In the Patna High Court
Case No : C.W.J.C. No. 10985 of 1999

Dr. Satya Bardhan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 30-09-2004

Acts Referred:

Citation : (2004) 4 PLJR 683

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Ganesh Prasad Singh and Shidesh Kumar Singh, for the Appellant;
A.P. Jittu for the State, for the Respondent

Final Decision : Allowed

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 24.5.1999 communicating to the petitioner that he shall be entitled only for subsistence allowance for the period of suspension. Facts giving rise to the present application are that while the petitioner was posted as Medical Officer at Primary Health Centre, Dhanarua, by order dated 3.11.1987, he was put under suspension. Later on, by order dated 3.6.1988 (Annexure-2), a departmental proceeding was initiated against him under Rule 55 of the Civil Services (Classification, Control and Appeal) Rules. The misconduct alleged against that petitioner is that he never used to stay at the place of his posting, that is, the Primary Health Centre, Dhanarua but stay somewhere else leading to deprivation of medical aid to the patients. Further misconduct alleged against the petitioner is that he used to be unauthorisedly absent from the place of posting. Petitioner submitted his reply and the Inquiry Officer submitted its report dated 16.5.1990 (Annexure-4) but did not find the petitioner guilty of misconduct alleged against him.

2. It is unfortunate that although the Inquiry Officer submitted its report on 16.5.1990, but the State Government did not pass the order within a reasonable time. Hence, petitioner, by letter dated 30th of January, 1997 (Annexure-5),

wrote to the State Government that the Inquiry Officer has submitted the report exonerating him from the charges and accordingly prayed for revocation of the order of suspension. The State Government by its letter dated 24.4.1997 (Annexure-6), wrote to the petitioner to make available the resolution dated 3.6.1988 by which the departmental proceeding was initiated. Thereafter, by order as contained in Memo No. 310 of 1987 (Annexure-7), the order of suspension was revoked and the petitioner given a place of posting. While revoking the order of suspension, it was observed that the decision in regard to the emoluments for the period of suspension, shall be taken later on.

3. Later on, by letter dated 12.2.1998, the petitioner was asked to show cause as to why no emoluments be paid to him for the period of suspension, i. e. 16.1.1990 to 11.9.1997 as also other punishment on the purported allegation that although the Inquiry Officer has submitted its report dated 16.1.1990, but the same was destroyed in April, 1992 and the petitioner did not bring the fact of submission of the report by the Inquiry Officer to the State Government and filed application for revocation of order of suspension after seven years. This according to the respondents showed his intention to prolong the period of suspension. Petitioner filed his reply and by the impugned order dated 24.5.1999 (Annexure-1), the State Government decided that no emoluments shall be paid to the petitioner for the period of suspension.

4. Mr. Ganesh Prasad Singh, Senior Advocate, appearing on behalf of the petitioner contends that failure on part of the State Government to take decision expeditiously on the report of the Inquiry Officer, cannot be attributed to the petitioner and as such, the decision not to pay emoluments for the period of suspension, is illegal. JC to SC II however appearing on behalf of the State submits that the petitioner having not prayed for revocation of order of suspension for long seven years, he is not entitled for emoluments for the period of suspension.

5. Having considered the rival submission, I find substance in the submission of Mr. Singh. It is a classical case in which the State Government is holding the petitioner responsible for the delay in taking the decision, instead of holding itself responsible for the same. From the letter of the State Government dated 12.9.1998 (Annexure-C to the counter affidavit), it is evident that the Inquiry Officer submitted its report in the year 1990 and according to the respondents themselves the report got destroyed in the fire which broke out in the year 1992. Why no decision was taken on the report submitted by the Inquiry Officer for these long years, till it allegedly got destroyed in the fire of 1992, has not at all been explained. Perhaps, it is not possible to be explained as, in my opinion, it is sheer callousness on part of the functionary of the State Government in not taking decision on the report and putting the blame on the employee for the delay.

6. I am of the considered opinion that the respondents were callous in not taking the decision expeditiously and no blame can be put on the petitioner at all for the

delay in taking the ultimate decision. The respondents shall be well advised to put its house in order and not try to defend its case putting the blame on others and the first step in this regard would be identifying the person responsible in keeping the issue in cold storage and award exemplary punishment, sooner the better. In the result, the application is allowed, the impugned order is set aside and it is held that the petitioner shall be entitled for all the emoluments for the period of suspension. In the facts and circumstances of the case, there shall be no order as to cost.