
(2012) 08 JH CK 0020

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5207 of 2006

Jagat Kishore Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 1 AJR 441

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Arjun Narayan Deo, for the Appellant; Rakhi Rani, J.C. to Sr.S.C. II, for the Respondent

Final Decision : Dismissed

Judgement

Alok Singh

1. The petitioner, who was working as Panchayat Sewak, was dismissed from the services vide order dated 29.12.1999 passed by the Disciplinary authority/ Deputy Commissioner, Hazaribagh on the ground that the petitioner has failed to deposit all receipts given to him for recovery of tax/ Lagan and has further failed to deposit the amount to the tune of Rs. 70.62 paise as well as 59.35 paise collected by him against tax and lagan Statutory appeal filed by the petitioner against the order of dismissal was also dismissed vide order dated 28.4.2004. The petitioner has filed the present writ petition on 6.9.2006 after almost 2 years from the date statutory appeal was dismissed. Although there is no limitation prescribed for filing the writ application, however, writ petition should be filed without any inordinate delay Present petition seems to be barred by principle of laches. Learned counsel for the petitioner while referring Annexure-7, i.e. affidavit dated 14.7.2005 has submitted that nephew of the petitioner was suffering from cancer and his brother Sri. Ramdeo Singh was busy in law practice, therefore, the petitioner was authorized by his brother Sri. Ramdeo Singh to look after his ailing son Arbind Kumar @ Tuntun. Therefore, the

petitioner was busy in looking after his ailing nephew and could not file writ petition at the earliest.

2. The famous saying that a person can tell lie, but the circumstances do not is fully applicable in the present case. Statutory appeal was dismissed vide order dated 28.4.2004 while the petitioner was allegedly authorized by his brother vide affidavit dated 14.7.2005, Annexure-7, therefore, the petitioner remained idle between 28.4.2004 till 14.7.2005 during which he could easily have filed the writ petition. There is no explanation as to why writ petition could not be filed at least till 14.7.2005.

3. This Court while exercising jurisdiction under Article 226 of the Constitution of India, ordinarily shall not act as an appellate authority to look into the correctness of the finding of facts recorded by the Disciplinary authority. However, in appropriate case, where finding of fact is totally perverse this Court can interfere. The view taken by the Disciplinary authority should be allowed to prevail and should not be lightly disturbed even if two views are possible on the material available on the record.

4. Learned counsel for the petitioner has vehemently argued that for meager amount of Rs. 70.62 paise as well as 59.35 paise, dismissal seems to be arbitrary and shocking.

5. Hon'ble Apex Court, in the case of Divisional Controller, KSRTC (NWKRTC) Vs. A.T. Mane, , has held that when an employee is found guilty of misappropriating funds, there is nothing wrong in the Corporation losing confidence and faith in such an employee and awarding punishment of dismissal. In such a case, there is no place for generosity or sympathy on the part of the judicial forum. In view of the discussion made above, I do not find any justification to interfere with the impugned orders. Consequently the present writ petition is dismissed.