

(2022) 09 PAT CK 0023

In the Patna High Court

Case No : Letters Patent Appeal No. 971 Of 2019 In Civil Writ Jurisdiction Case
No. 7844 Of 2015

Jai Narayan Rai

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 14-09-2022

Acts Referred:

Citation : (2022) 09 PAT CK 0023

Hon'ble Judges : P. B. Bajanthri, J;Rajiv Roy, J

Bench : Division Bench

Advocate : Ibrahim Kabir, Sanjay Kumar Ghosarvey

Final Decision : Dismissed

Judgement

1. Heard learned counsels for the parties.
2. In the instant Letters Patent Appeal, appellant has assailed the order of the learned single Judge dated 25.06.2019 passed in C.W.J.C. No. 7844 of 2015.
3. Appellant- Jai Narayan Rai was subjected to parallel proceedings. In the departmental enquiry, he was dismissed from service on 27.04.2008 and it was subject-matter of C.W.J.C. No. 11111 of 2003 and it was dismissed as withdrawn in the light of memorial was pending consideration before the competent authority. The memorial was rejected on 05.07.2005. He had cause of action in filing fresh writ petition in the year 2005 whereas he has preferred C.W.J.C. No. 7844 of 2015 after more than one decade from the date of rejection of memorial.
4. Learned counsel for the appellant submitted that he has not suppressed as noted down by the learned single Judge and its order dated 25.06.2019. Assuming that if he has not suppressed any material at the same time one cannot ignore the conduct of the appellant that he slept over the matter for one decade from the date of rejection of memorial.
5. Learned counsel for the appellant submitted that he has preferred C.W.J.C.

No. 7844 of 2015 after his acquittal in the Criminal Case on 22.12.2011. Even then there is delay of about four years. Time and again Hon'ble Supreme Court has held that parallel proceeding launched against an employee are two different proceedings. Departmental proceedings would be launched based on the alleged allegation relating to misconduct. On the other hand, criminal proceedings is with reference to offences committed under Indian Penal Code or/and special laws like, Prevention of Corruption Act etc., Therefore, both the proceedings are two independent proceedings.

6. Apex Court recently in the case of State Bank of India and another Vs. K.S. Vishwanath reported in AIR 2022 SC 2531(weekly) have elaborately discussed departmental proceedings and criminal proceedings and analyzed how each of the proceedings are different.

7. In the light of these facts and circumstances, appellant should not have waited for outcome of criminal proceedings in challenging the departmental proceedings. Therefore, there is no infirmity in the order of the learned single Judge dated 25.06.2019. There is no lacuna in the order of the learned single Judge. Since we have taken note of dates and events and decided that the appellant has slept over the matter in questioning the validity of the rejection and memorial dated 05.07.2005 within a reasonable period of 3 years.

8. Apex Court in the case of State of Uttar Pradesh and Others Vs. Krishna Bahadur Singh reported in (2021)11 SCC 812 has also dealt with belated challenge to the order passed in a disciplinary proceedings.

9. Accordingly, the present Letters Patent Appeal stands dismissed.