
(2009) 03 PAT CK 0031
In the Patna High Court
Case No : CWJC No. 12132 of 2002

Janeshwar Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-03-2009

Acts Referred:

Citation : (2009) 3 PLJR 811

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navin Sinha, J.—The petitioner, a Sub-Inspector of Police, was subjected to a departmental proceeding when orders of punishment by reversion to the post of Assistant Sub-Inspector of Police have been passed against him by the D.I.G., Koshi Range at Saharsa. The petitioner preferred an appeal before the Director General of Police, which has been disposed by the Inspector General of Police and rejected.

2. Learned counsel for the petitioner makes a short submission relying on a Bench decision of this Court in Ram Anugrah Singh Vs. State of Bihar and Others, that the Inspector General of Police was not competent to deal with the appeal and that the Director General of Police alone was competent to decide the appeal.

3. This court at paragraphs 5, 6 & 7 of the judgment, relied upon, has held as follows:--

"5. For appreciating the issue involved, it would be proper to quote Rule 851 of the Rules framed under the Act, which provides for appeals in case of major punishment. The Rule reads as follows:--

"851. (a) No appeal shall lie except in cases of major punishments enumerated in Rule 828.

(b) Against an order of dismissal, removal, reduction, withholding of promotion

or periodical increment, suspension with loss of pay, removal from any office or distinction or special emolument there shall be one appeal in each case as follows:--

Against an order passed by a Superintendent, to the Deputy Inspector General;

Against an original order passed by the Deputy Inspector General to the Inspector General;

Against an original order passed by the Inspector General to the State Government.

(c) The orders of appellate authority shall be final subject to provisions of Rule 853.

An order passed with the concurrence of any superior authority (other than the State Government) shall be considered to be an original order of such superior authority."

A reading of the aforesaid Rule clearly shows that in the facts of the present case the appeal lay only to the Inspector General since the original order of major punishment has been passed by the Deputy Inspector General.

Section 4 of the Act deals with Inspector General of Police and it reads as under:--

"Sec. 4 Inspector General of Police etc.--The administration of the Police throughout a general police district shall be vested in an Officer to be styled the Inspector General of Police, and in such Deputy Inspectors General and Assistant Inspectors General as to the State Government shall deem fit."

5. In view of the aforesaid provision it is crystal clear that in a State there can be only one Inspector General of Police and in the State of Bihar, the Director General of Police has been designated by the State Government as the Inspector General of Police for the statutory purposes under the Act. The expression Inspector General as used in the above quoted Rule 851 has to be understood in which it has been defined u/s 4 of the Act. Neither the Act nor the Rules authorize the Inspector General of Police of the State to delegate its appellate powers in favour of any other police officer.

6. In this view of the matter, even if there was any delegation of appellate power by I.G. in favour of I.G. (B.M.P.), it was impermissible and bad in law. The reliance of the respondents on Section 12 of the Act for justifying the delegation is wholly misplaced since Section 12 of the Act does not vest the Inspector General of Police with any such power of delegation. Even the approval of the State Government cannot make such delegation as valid. Admittedly, the Inspector General (B.M.P.), respondent No. 5, is not the Inspector General of Police of the State. In this view of the matter, it has to be held that respondent No. 5 had no jurisdiction to consider and reject the statutory appeal of the petitioner and as such the order passed by him as contained in Annexure-11 has

to be quashed. Now, the Director General of Police, Bihar (respondent No. 4) will dispose of the appeal of the petitioner in accordance with law."

4. In view of the law laid down by this Court, the appellate order passed by the Inspector General of Police rejecting the appeal is not sustainable. It is, accordingly, set aside.

5. The appeal is now remanded to the Director General of Police for disposal in accordance with law expeditiously preferably within a period of four months from the date of receipt and/or production of a copy of this order. The writ application stands allowed.