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**(2003) 03 PAT CK 0102**  
**In the Patna High Court**  
**Case No : L.P.A. No. 146 of 1996**

Kamleshwari Prasad Sinha

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

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**Date of Decision :** 07-03-2003

**Acts Referred:**

Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 — Rule 2, 4

**Citation :** (2003) 3 PLJR 122

**Hon'ble Judges :** Ravi S. Dhavan, C.J;R.N. Prasad, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## Judgement

1. Merely because the Petitioner may have (sic) the writ petition while trying to avoid provision of the Bihar and Orissa Subordinate Services (Discipline and Appeal) Rules, 1935 is no reason for this Court in Letters (sic)ent Appeal to examine the issues on (sic)rits whether the penalty of withholding (sic)rements or for that matter recovery from the as punishments should be visiting the Petitioner. The competent authority has given punishment on these two aspects. The Petitioner could have filed an appeal under (sic) 4. Rule 4 is reproduced:

Every member of a Subordinate Service (including temporary Government services and officers on probation) shall be (sic)ed to appeal to the authority immediately superior to the authority which passed order:

(a) imposing upon him any of the (sic)alties specified in Rule 2;

(b) terminating his appointment other-(sic) than on the expiry of the period of his appointment or on his reaching the age of (sic)annuation.

2. The aspects on which the appeal to be filed is given in Note 2 of Rule 2. Clause (ii) of Note 2 refers to the award punishment for withholding of increase Sub-clause (iii) of Note 2 refers to (sic)ry from pay or the whole or part of (sic)ecuniary loss caused to Government.

3. Appropriately, it is entirely up to the Petitioner to file an appeal if he is so (sic)ed along with an application seeking donation of delay. The writ petition in case was not maintainable. The Court to thus, interfering on the order which been passed on the writ petition.

4. The appeal is dismissed.