
(2005) 09 PAT CK 0095
In the Patna High Court
Case No : C.W.J.C. No. 7448 of 1992

Krishna Lal Srivastava

APPELLANT

Vs

PRDA and Others

RESPONDENT

Date of Decision : 26-09-2005

Acts Referred:

Citation : (2005) 09 PAT CK 0095

Final Decision : Allowed

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. This writ application is directed against the order, as contained in Annexure 1 dated 17th August, 1990 and the appellant order dated 14th May, 1992, whereby and whereunder the petitioner has been dismissed from services.

3. It is submitted by learned counsel for the petitioner that it is a case, where procedure quite unknown to law has been applied in passing the orders impugned. It is also submitted that the Secretary of the Patna Regional Development Authority (hereinafter to be referred to as "PRDA"), who raised the grievances against the petitioner, became Judge of his own cause, inasmuch as he issued the order of suspension and also order of dismissal and he became a witness in the proceeding. It is further submitted that it would appear from the materials on record that Shri Saheb Sharan, Secretary, PRDA had drawn the charges against the petitioner on the basis of which he was put under suspension vide order, as contained in Annexure 4, and he himself deposed against the petitioner in inquiry without giving any opportunity to the petitioner to cross-examine him and the other witnesses so examined nor the inquiry report was served upon him prior to passing of the order impugned, as contained in Annexure 1.

4. Mr. Siddeshwari Prasad Singh, learned senior counsel for the PRDA, on the contrary, submitted that neither the Secretary, PRDA, namely, Shri Saheb Sharan, was instrumental in putting the petitioner under suspension nor he was

the authority to issue the order of suspension as well as the order of dismissal, rather it would be manifest from Annexures 1 and 4 that the necessary order were passed by the Vice Chairman of the PRDA and he merely communicated the orders as contained in Annexure 1, in the capacity of Secretary of the PRDA. Learned counsel also submitted that it may be a case, where procedures were not correctly applied against the petitioner in course of a departmental inquiry, but, in no case, it can be said that the Secretary of the PRDA became Judge of his own cause, as he was duty bound to communicate the orders passed by the Vice Chairman, who was the competent authority to pass the orders against the petitioner.

5. It appears from the pleadings of the petitioner that the inquiry report was served upon him along with the second show- cause notice and there is no denial of the fact that proper opportunity was not given to the petitioner to defend himself in the inquiry nor he was given opportunity to cross-examine the witnesses. It further appears that the Secretary, PRDA, had pointed out to the Vice chairman about the omission and commission on the part of the petitioner and on his report, the petitioner was put under suspension vide order, as contained in Annexure 4, by the Vice Chairman. The Secretary of the PRDA in this context, if at all was examined as a witness, sufficient opportunity could have been given to the petitioner to cross-examine him.

6. It appears that the inquiry was concluded in the manner without affording sufficient opportunity to the petitioner and non-service of the inquiry report to the petitioner prior to passing of the order impugned nevertheless prejudices the case of the petitioner and the orders impugned in this background are held to be violative of the principles of the Natural Justice and wholly without jurisdiction.

7. In this connection, reference may be made to the case of Managing Director, ECIL, Hyderabad, Vs. Karunakar, etc. etc.,

8. Having heard counsel for the parties and in view of the discussions aforementioned, orders impugned, as contained in Annexures 1 and 2, are held to be violative of the principles of Natural Justice and wholly without jurisdiction.

9. In the result, this application is allowed and orders impugned, as contained in Annexures 1 and 2, are set aside.

However, the respondent authorities, if so advised, may proceed in the matter in accordance with law.

No order as to costs.