

(2006) 01 PAT CK 0092
In the Patna High Court
Case No : CWJC No. 7667 of 2005

Krishna Nand Sah

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-01-2006

Acts Referred:

Citation : (2006) 2 PLJR 157

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Sanjeev Kumar Mishra, for the Appellant;

Judgement

Radha Mohan Prasad, J.—In this writ petition, the petitioner is aggrieved by the order of the disciplinary authority, namely, Deputy Inspector General of Police, Magadh Range, Gaya, whereby and whereunder he has been reverted from the post of Assistant Sub-Inspector of Police to the post of Constable for one year and, further, that he would not get any other amount except the subsistence allowance, which has been paid to him during the suspension period. It appears that the petitioner was also involved in a criminal case and for same charge a departmental proceeding was also initiated against him. He has been acquitted in the criminal case, but the impugned order has been passed by the disciplinary authority imposing the aforementioned punishment.

2. According to the learned counsel for the petitioner, there is no evidence at all against this petitioner and none has come to support the charge, yet the disciplinary authority has passed the impugned order of punishment. He further submitted that the charges in the departmental proceeding are same as in the criminal case and, in fact, the departmental proceeding has been initiated because of criminal charges, in which case law is that if a person is acquitted on the ground that the case against the accused is not proved, the delinquent cannot be subjected to punishment of dismissal on the same charge. In support of this, he referred to a decision of the Ranchi Bench of this Court (as it then stood) in the case of Javed Shoukat Vs. The State of Bihar and Others, .

3. However, learned counsel for the State submitted that the petitioner has filed appeal before the Director General of Police, Bihar, Patna (respondent No. 2) against the impugned order and the same is still pending. Under such circumstances, this writ petition is fit to be dismissed on the sole ground of availing of alternative remedy.

4. I am unable to appreciate the said submission of the learned counsel for the State. Learned counsel for the State has not disputed that the statutory appeal preferred by the petitioner dated 15.1.2005 was received in the office of the appellate authority, namely, respondent No. 2, on 11.2.2005, yet the same has not been disposed of now for almost one long year. However, having regard to the facts and circumstances aforementioned, the writ application is disposed of with direction to respondent No. 2 to consider the appeal and dispose it of within a fortnight of the receipt/production of a copy of this order keeping in view the principle decided by the Ranchi Bench of this Court (as it then stood), referred to above.