
(2008) 06 PAT CK 0016
In the Patna High Court
Case No : LPA No. 978 of 2007

Mahendra Prasad Singh @ Mahend

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 26-06-2008

Acts Referred:

Citation : (2008) 3 PLJR 480

Hon'ble Judges : R.M. Lodha, C.J; Kishore K. Mandal, J

Bench : Division Bench

Advocate : Harendra Pratap Singh, for the Appellant; Rajesh Kr. Verma, for the Respondent

Final Decision : Dismissed

Judgement

1. We heard the counsel for the appellant and perused the impugned order and the available material. The whole thrust of the argument of the counsel for the appellant is that the appellant has not been dismissed or removed by way of punishment for misconduct vide order dated 14.9.1977 and on the basis of this order, the appellant could not have been denied pension as he had completed qualified service of pension.

2. Rule 46 of the Bihar Pension Rules, 1950 provides that no pension will be granted to a Government servant dismissed or removed for misconduct. The question that falls for consideration is whether the order dated 14.9.1977 is an order of discharge or dismissal. It is true that in the last but one paragraph of the order dated 14.9.1977, the expression "Seva Mukta (discharge)" has been used by the disciplinary authority but the order, read as a whole, leaves no manner of doubt that the order dated 14.9.1977 is not an order of discharge but an order of dismissal. This is clearly reflected by the following observation: "Pramanit Aarop ke bar binduon par gaur karne se is tarah ke anusanheen arakshi karmi ko vibhag se barkhast kar dena hee upayogi sidh hoga".

3. The order dated 14.9.1977 being an order of dismissal, Rule 46 of Bihar

Pension Rules, 1950 is clearly attracted. The various decisions cited by the counsel for the appellant, in this view of the matter, have no application.

4. The impugned order does not suffer from any infirmity. L.P.A. is dismissed in limine.