
(2012) 01 PAT CK 0010
In the Patna High Court
Case No : CWJC No. 9874 of 2005

Muneshwar Prasad Yadav

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-01-2012

Acts Referred:

Citation : (2012) 2 PLJR 853

Hon'ble Judges : V.N. Sinha, J

Bench : Single Bench

Advocate : Ravindra Nath Dubey, for the Appellant; Anju Jha, for the State, for the Respondent

Final Decision : Allowed

Judgement

V.N. Sinha, J.—Learned counsel for the petitioner is permitted to correct the annexure number of the appellate order dated 1.10.2005 from Annexure-7 to Annexure-17. Heard learned counsel for the petitioner and the State.

2. At the relevant time, petitioner served as 2nd Clerk-cum-Cashier in the office of the Special Land Acquisition Officer, Koshi Project, Saharsa. He has filed this writ petition against the order, bearing Memo No. 4623 dated 11.7.2003, Annexure-12 passed by the Director, Land Acquisition and Rehabilitation, Water Resources Department whereunder his 100% pension, gratuity has been withheld with further direction not to pay him the amount of leave encashment. Order dated 11.7.2003, Annexure-12 has also been affirmed in appeal as the appeal filed against the said order was dismissed under order dated 1.10.2005, Annexure-17 to the I.A. No. 234 of 2012, which is also under challenge in the instant case.

3. It is submitted on behalf of the petitioner that earlier charge-sheet was served on him with direction to submit his written defence and in consideration of the written defence, the Enquiry Officer submitted enquiry report dated 16.7.2002 and having considered the said enquiry report, the Disciplinary Authority issued

second show cause notice dated 5.4.2003, Annexure-10 asking the petitioner to show cause as to why he be not punished for charge No. 4, which has been found to be proved by the Enquiry Officer. Petitioner refuted the findings recorded by the Enquiry Officer by filing second show cause reply but considering the same the Disciplinary Authority, Director, Land Acquisition and Rehabilitation passed impugned order dated 11.7.2003, Annexure-12 holding the petitioner guilty of both charge nos. 3 and 4. It is further submitted on behalf of the petitioner that second show cause notice was served on him asking him to show cause as to why he be not held guilty in the light of the findings recorded by the Enquiry Officer for charge No. 4. In response to the second show cause notice petitioner submitted that for charge No. 4, petitioner cannot be held responsible as the cheques for payment of the compensation amount to the land-holder Awardees was issued under the signature of the Land Acquisition Officer and if later on the cheques were converted into bearer cheques then for such conversion endorsement by the paying authority i.e. the Land Acquisition Officer over the cheque is necessary. Petitioner cannot be held responsible for the endorsement made by the Land Acquisition Officer over the cheques changing the mode of payment from account payee to bearer, as in the counterfoil maintained in the office, it is indicated that cheques are account payee. In this connection, it is pointed out that any subsequent change in the cheques can only be made under the signature of the person who has drawn the cheques, in the instant case Land Acquisition Officer. Learned counsel for the petitioner further pointed out that even charge No. 3 is also repetition of same charge No. 4. Further submission made on behalf of the petitioner is that not a single awardee, who was paid the amount, ever came to complain that the amount of compensation has not been paid to him.

4. Counsel for the State, however, opposed the prayer and submitted that petitioner having been awarded punishment by the Disciplinary Authority under the impugned order and his appeal filed against the impugned punishment order having also been dismissed, this Court should not interfere in the matter, although learned counsel for the State has not been able to answer the submission made by the learned counsel for the petitioner that cheques issued by the Land Acquisition Officer for payment of the award amount to the landholders could not have been changed from account payee to bearer by the petitioner, who was only authorized to fill up the cheque form but the cheque form was ultimately signed by the Land Acquisition Officer and any change in the cheques which were already signed, can only be made with the counter-signature of the authority who has issued the cheques.

5. I see substance in the submission of the learned counsel for the petitioner and, accordingly, set aside not only the order dated 11.7.2003, Annexure-12 withholding 100% pension and gratuity of the petitioner but also the appellate order dated 1.10.2005, Annexure-17 and direct that petitioner be paid arrears of his pensionary benefit as early as possible, in any case within two months from the date of receipt/production of a copy of this order before the Director, Land

Acquisition and Rehabilitation, Water Resources Department, Respondent No. 3.
The writ petition is, accordingly, allowed.