

(2008) 02 PAT CK 0054
In the Patna High Court
Case No : CWJC No. 3740 of 2007

Narayan Prasad Sah

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 12-02-2008

Acts Referred:

Citation : (2008) 2 PLJR 581

Hon'ble Judges : Rajesh Balia, C.J; Barin Ghosh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Having heard learned counsel for the parties, we are of the opinion that this writ petition should succeed on a short ground. The petitioner has been subjected to a departmental enquiry as a result of a vigilance charge and on the acceptance of the findings of the Enquiry Officer, he has been visited with major penalty of reduction in rank by reducing him in the pay scale.
2. The undisputed fact is that no Presenting Officer has been appointed in the departmental enquiry and the Enquiry Officer himself has acted as the Presenting Officer to conclude the enquiry. Thus the Enquiry Officer has assumed the role of the prosecutor affecting the fairness of the enquiry proceedings.
3. In that view of the matter, the mere fact that a vigilance charge was levelled against the delinquent officer as a result of using a decoy by itself is no answer to the petitioner's right to have a fair enquiry before he is found guilty of the charges levelled against him and is punished. The reasons that the charges are grave by itself is not enough that an enquiry tainted with bias should be allowed to be sustained. From the record it also appears that the disciplinary authority has acted without application of mind having assumed that all the charges against the delinquent have been proved notwithstanding the fact that the Enquiry Officer has only found the first two charges proved, and found that third charge is not proved.

4. We are, therefore, of the opinion that the enquiry is vitiated on account of blatant violation of principles of natural justice and has affected the outcome of enquiry proceedings. Accordingly, the writ petition is allowed.

5. The impugned order dated 17.5.2006 passed by the Central Administrative Tribunal is set aside. The Original Application filed by the petitioner is allowed. The order passed by the Enquiry Officer alongwith the punishment order passed by the Disciplinary Authority as affirmed by the Appellate Authority is quashed. However, enquiry against the petitioner shall continue de novo after appointment of another Enquiry Officer not connected with charge and a Presenting Officer is appointed in accordance with law.