
(1990) 11 PAT CK 0009

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1913 of 1987

Nawal Kishore Singh

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 02-11-1990

Acts Referred:

Railway Protection Force Rules, 1987 — Rule 47

Citation : (1992) 2 PLJR 225

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : A.N. Singh and S.J. Mukhopadhaya, for the Appellant; A.B. Ojha, for the Respondent

Judgement

G.C. Bharukha, J.—Heard Mr. Amar Nath Singh for the Petitioner and Mr. A.B. Ojha for the Respondents.

2. The basic facts are not in dispute. Admittedly by order No. 70/81 dated 20th February, 1981, Petitioner was dismissed from his service under Rule 47 of the Railway Protection Force Rules, 1950 (hereinafter referred to as "the Rules"). At that time the Petitioner was posted on the post of Rakshak at Garhara. The order of dismissal was challenged by the Petitioner by filing a writ application in this Court being C.W.J.C. No. 923 of 1981. This Court allowed the writ application by the judgment dated 23rd April, 1985 and quashed the order of dismissal. The matter was taken to Supreme Court by way of SLP but the Respondents lost at that stage as well. Consequently by order No. 201/87 dated 12.2.1987 (Annexure-3) the Commandant/R.P.F., Eastern Railway, Danapur reinstated the Petitioner in service.

3. The grievance of the Petitioner is that despite the judgment of this Court by which the order of dismissal of the Petitioner was quashed as being illegal, he is not being paid his salary for the period 20.2.1981 to 19.2.1987. It is relevant to state here that after the judgment of this Court the Petitioner submitted his joining report on 18.5.1985, which is evidenced by Annexure-2 to this writ

application. It further seems that pursuant to the order (Annexure-3) the Petitioner was allowed to join his duties on 20th February, 1987.

4. There is no counter affidavit in this case. Mr. A.B. Ojha, learned Counsel for the Respondents, states that in view of the statement made in paragraph 18 of the petition, the Petitioner has been suspended by a subsequent order dated 19th April, 1987. Therefore, according to Mr. Ojha the Petitioner is entitled only for subsistence allowance for the period commencing from 20.2.1981, i.e. the date of the first order of removal, which, as stated above had been already quashed by this by judgment dated 23.4.1985 (Annexure-1). Mr. Ojha has not furnished any basis to substantiate his submission and in absence of any order or document to substantiate the said submissions, it cannot be accepted.

5. In my opinion, the claim of the Petitioner is fully justified in law since his order of removal was quashed by this Court for procedural infirmities. He will be deemed to have been in continuous service for the period in question.

6. Accordingly, I direct the Respondents to pay the arrears of salary to the Petitioner for the period 20th February, 1981 till 19th February, 1987 with simple interest at the rate of 12 per cent per annum. The payment should be made within two months from date of communication of this order by the Petitioner to the authority concerned. There will be no order as to cost.