

(2011) 01 PAT CK 0141
In the Patna High Court
Case No : CWJC No. 7284 of 2010

Om Prakash Shrivastava

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-01-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 304A

Citation : (2011) 59 BLJR 2331 : (2011) 1 PLJR 1062

Hon'ble Judges : Ajay Kr. Tripathi, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ajay Kr. Tripathi, J.—It is a clear case of harassment which has been met out to the Petitioner because he was put under suspension on 18.12.1993 in anticipation of so-called departmental enquiry which was never initiated in all these years. Later on, suspension was revoked on 13.7.1994 and when payment of salary was not made for the period of suspension including non-payment of annual increments and his time bound promotion etc. the Petitioner knocked the door of the Court.

2. There is some reflection in the writ application itself that a criminal case for negligence u/s 304A of the Indian Penal Code was instituted against the Petitioner in which he was exonerated by the Court but the Respondents, it seems, were not satisfied with the finding of the criminal court and wanted to proceed against the Petitioner departmentally. But nothing happened thereafter.

3. No satisfactory counter affidavit came from the State because counter affidavit filed on behalf of Respondent No. 4 did not answer the issues raised by the Petitioner as it did not relate to him.

4. Today Director-in-Chief, Health Services, Government of Bihar is present in person and has filed a show cause in which a stand has been taken that in absence of the records or the file being available, they are not in a position to

state as to what happened in the enquiry. A communication dated 5.7.2004 has been annexed which seems to be a letter addressed to the Petitioner that he should inform the authorities as to what kind of punishment was imposed against him.

5. There cannot be a better example of inefficiency or incompetence and mal-governance than the present case because it is the stand of the Petitioner that no departmental enquiry whatsoever was initiated when he was put under suspension and thereafter. The laughable situation is that the employer does not know as to what kind of action was taken against its employee and what kind of punishment if at all was imposed against him. It seems that they are still fishing for information which they themselves do not have. Stand of the Petitioner is that there never was any enquiry or an enquiry report and no evidence exists in this regard.

6. The stand in the counter affidavit is that the Petitioner is at fault and he slept over the matter for a long time.

7. In the totality of the facts it is evident that the Respondents are finding a way out or an excuse not to pay to the Petitioner what is rightly fully due to him and Petitioner has unnecessarily been harassed for so many years for no apparent reason may be on a so-called illusive enquiry or enquiry report which is being held out as the reason for non-grant of his salary, increment, time bound promotion and the benefit of ACP.

8. To sum, it is a fit case where in the opinion of this Court, an exemplary cost of Rs. 25,000/- (rupees twenty five thousand) should be awarded against the Respondent State payable by the Director-in-Chief, Health Services, Government of Bihar to the Petitioner. In addition to that, Petitioner shall be paid his salary for the period of suspension from 18.12.1993 to 13.7.1994 within a period of one month from today. So far as other benefits are concerned, the matter will be examined and the outcome thereof will be communicated to the Petitioner further in another three months time.

9. If the Director-in-Chief, Health Services, Government of Bihar feels that embracement has been caused to State due to the laches of other employees, let an enquiry be held to fix responsibility on the delinquent and recover the amount of cost from that person.

10. The writ application is allowed case with the above observation.

11. Personal appearance of the Director-in-Chief is hereby dispensed with.