
(2004) 01 PAT CK 0108
In the Patna High Court
Case No : L.P.A. No. 650 of 1997

Parmeshwar Pd. Sah

APPELLANT

Vs

Tha State of Bihar and Others

RESPONDENT

Date of Decision : 06-01-2004

Acts Referred:

Citation : (2004) 2 PLJR 816

Hon'ble Judges : Ravi S. Dhavan, C.J.;Shashank Kr. Singh, J

Bench : Division Bench

Advocate : S.N. Jha and Ajay Kr. Chakrapani, for the Appellant; R.S. Pradhan and S.P. Tripathi, for the Respondent

Final Decision : Dismissed

Judgement

1. The defence being taken in the State government is that the employees were dismissed because the State government said so. The court does not find any such explanation on record. Though, the admitted contention is that the employees had been dismissed because the Bihar State Financial Corporation was in financial difficulties. The employees have not been dismissed or terminated because of any charge against them but for the only sin that this public sector undertaking ran into financial difficulties. Who will take the responsibility of running this Corporation into financial difficulties.

2. It is pointed out to the court that the Corporation hides behind the Circular dated 15 June 1993. On this it is submitted that the Corporation had been prevented from making further appointments after 1985. On this learned Counsel for the Appellant interjected to correct the record that the statement being made on behalf of the Corporation is incorrect. Learned Counsel also submitted that the supplementary affidavit which has been filed verified by the Chairman-cum-Managing Director, Bihar State Food and Civil Supplies Corporation Ltd., does not give the full facts as in the judicial order the Corporation had accepted the cut-off date from subsequently modified to 13.12.1990. This fact is demonstrated from Annexure-13 an order of the High Court dated 10.4.1997 in C.W.J.C. No. 2322 of

1996 Shyam Narayan Paswan and Ors. v. Bihar State Food and Civil Supplies Corporation Ltd. and Ors. Thus, whatever may be the cause or reason the correct facts were never disclosed to the court deciding the writ petition and even in the appeal they are being evaded that the cut-off date which may have been defence of the Corporation for whatever it is worth was shifted to 1990. Why were these facts suppressed? This material suppression of facts has affected the life and liberty of daily wages employees who are basically in a lesser category than a Class IV category employee.

3. The court is now appalled and dismayed that public sector undertakings in Bihar and their Managers are playing with the lives of poor people. The court can hardly dismiss the suppression of this material facts as carelessness or callousness. While it may be explained away as carelessness yet it was becoming a matter of life and death for those who lost their job.

4. The court cannot hesitate to place all this on record that in other matters of public sector undertakings lot of misunderstanding has taken place with suppressed facts and concealment. Merely because the Managers, who are bureaucrats run public sector undertakings, have the power to play with the lives of their workers is no ground that the latter are defenceless. It needs to be remembered that the workers equity is involved in every company in which he works. A corporation is no different.

5. Record for record carelessness, callousness or deliberate suppression of falsehood has already taken place. In the record of this case the bottom is knocked out of the defence that the employees were dismissed because of financial constraints. This aspect will otherwise remain an issue.

6. By suppressing material facts which caused the dismissal of seven of Category IV employees has resulted in injustice. In orders of the court, the court certified a wrong situation on wrong facts suppressed from the court. Thus, two things have happened (a) falsehood has been stated before the court by the contesting Respondent and (b) falsehood borders on criminality which is criminal contempt for concealing and running state of affairs otherwise than it exists on record.

7. The Respondent 4 & 5 (the Managing Director and the Chairman, Bihar State Food and Civil Supplies Corp. Ltd.) and the officer (Jai Prakash Jha, Deputy Chief (Legal), Bihar State Food and Civil Supplies Corporation Ltd.) who affirmed the affidavit on their behalf have rendered a state of affairs, unless shown otherwise, which offends public justice and may be liable to be proceeded with and face allegations under Chapter XI of the Indian Penal Code 1860.

8. Falsehood is a criminal contempt. They are liable to be proceeded with for such act. They may have the opportunity to explain to the court why the court ought not to draw out proceedings one for perjury and other for contempt in misleading the court in having passed incorrect orders by which the seven employees were denied service when today the record reveals that the cut-off date has been shifted and there was no occasion to terminate the services of

these employees.

9. The Registrar General will draw out a notice and give it to the counsel who represents these parties and they are liable to give their explanation. The court cautions them that they should mitigate the situation and purge the wrong which has been done. The court might consider further action accordingly.

10. Put up on 13.1.2004 under the same heading.