

(2004) 11 PAT CK 0054
In the Patna High Court
Case No : CWJC No. 4481 of 2001

Raj Narayan Prasad

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 10-11-2004

Acts Referred:

Citation : (2004) 3 BLJR 2196 : (2005) 1 PLJR 121

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Teg Bahadur Singh, for the Appellant; A.B. Sinha, SC-10, for the Respondent

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Heard counsel for the parties.

2. The petitioner has challenged the order of dismissal from his services.

3. It is submitted by learned counsel for the petitioner that the petitioner was appointed on the post of police constable on 6.12.1999, as he had fulfilled all the criteria for such appointment and while he was serving he was dismissed from services with affect from 8.8.2000 by virtue of order, as contained in Annexure-A to the counter-affidavit.

4. It is further contended by learned counsel for the petitioner that since the petitioner was appointed after due verification he could not have been dismissed without giving any opportunity to explain his conduct and even if any infirmity was found in his selection, show-cause notice was required to be given to the petitioner before issuing order of dismissal.

5. From Annexure-A to the counter-affidavit, it is manifest that in course of employment of the petitioner it was detected that he impersonated another person, and, therefore, his photograph as affixed in his application was compared with the petitioner, who was called upon to testify the same and thereafter his

height was measured, which was also found as 173.6 cm. as against his height recorded in the master chart as 180.5 cm. It further appears from Annexure-A that the photograph of the petitioner was not found that of the petitioner and there was discrepancy in his height as recorded in the master chart and on the date of verification.

6. This shows that the petitioner was called upon to testify as to whether the photograph affixed in the application was of the petitioner and as to whether, he was of the requisite height as recorded in the master chart.

7. It is submitted by learned counsel for the State that after passing of the order, as contained in Annexure-A, a first information report has been lodged against the petitioner and investigation is pending.

8. It does not appear to be a case that the petitioner had no knowledge, whatsoever, about the verification of his application form, rather it appears that in his presence his photograph was compared which had not resembled with the petitioner and his height was found lesser than the height as recorded in the master chart, as referred to above.

9. The process, as it appears, had started in presence of the petitioner, and, therefore, I do not find any merit in the submission of learned counsel for the petitioner that no opportunity, whatsoever, was given to the petitioner before passing of the order, as contained in Annexure-A to the counter-affidavit.

10. Normally, in a case of dismissal or termination, the employer is required to give sufficient opportunity to its employee to explain his case. But, in the case at hand, it appears that the exercise, as referred to above, was completed in presence of the petitioner, itself and, in that view of the matter, it would not be proper to say that no opportunity, whatsoever, was given to the petitioner.

11. For the reasons aforementioned, therefore, I do not find sufficient reasons to interfere with the order of dismissal, as contained in Annexure-A to the counteraffidavit.

12. This application is, accordingly, dismissed.