
(2010) 09 PAT CK 0073
In the Patna High Court
Case No : CWJC No. 3255 of 2010

Rajeshwar Kumar Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 09-09-2010

Acts Referred:

Citation : (2011) 1 PLJR 514

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Navin Sinha, J.—Heard learned Counsel for the Petitioner and learned Counsel for the State.

2. The Petitioner was issued a Memo of charges on 9.7.1996. The enquiry report was submitted on 23.6.2000. A second show cause notice was given on 10.1.2002. He superannuated on 31.1.2002, The proceedings were converted into one u/s 43(b) of the Pension Rules on 25.6.2002. On 10.7.2002 a show cause notice was given as to why punishment withholding 5% of pension be not passed. After consideration the final order dated 4.10.2002 withholding 5% pension was passed.

3. On challenge it was upheld in C.W.J.C. No. 3126/03 questioned in L.P.A. No. 714/04 unsuccessfully. In the SLP the Petitioner acknowledged that the punishment had been given effect to, but that more than the amount necessary had been deducted. He also agreed not to reclaim any excess amount that may have been recovered. Fresh orders had thereafter been passed for recovery of certain amounts with which the present application is not concerned.

4. Learned Counsel for the Petitioner submitted that the Petitioner was also eligible to be considered in the Departmental Promotion Committee meeting dated 22.12.2008 when his juniors have been considered and promoted with effect from 1.9.1999. The original proposal for punishment under the second

show cause notice was of stoppage of two increments with cumulative effect.

5. Proceedings having been initiated against him in 1996, whether it be the proposed punishment or the final punishment on 4.10.02, both were major in nature. It is therefore apparent that on 1.9.1999 when his juniors were promoted the Petitioner was not eligible for consideration because of the pendency of the departmental proceeding.

6. On a reading of the orders of the Supreme Court dated 13.2.2006 and 9.5.2006 this Court is unable to hold that the Supreme Court exonerated him. The recitals in the order are themselves evidence that the Petitioner accepted his guilt, accepted part of the recovery from his pension and the Supreme Court thought it prudent to finally settle matters at that in view of his admitted superannuation. That does not amount to an exoneration by the Supreme Court of a punishment imposed.

7. There is no merit in this application. It is accordingly dismissed.