
(2002) 04 PAT CK 0046
In the Patna High Court
Case No : L.P.A. No. 374 of 2002

Ram Chandra Ram

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 02-04-2002

Acts Referred:

Bihar Service Code, 1952 — Rule 97

Citation : (2002) 50 BLJR 896 : (2002) 3 LLJ 715 : (2002) 2 PLJR 309

Hon'ble Judges : Tarkeshwar Prasad Singh, J; Sachchidanand Jha, J

Bench : Division Bench

Advocate : Ashwant Kumar Singh, for the Appellant;

Judgement

Sachchidanand Jha, J.—This Letters Patent Appeal arises from an order of learned single Judge by which he has dismissed the writ petition of the appellant. The appellant had challenged the order by which he had been awarded punishment of stoppage of one annual increment in a departmental proceedings. It was submitted on behalf of the appellant that the punishment had been awarded by the District Superintendent of Education, Sitamarhi on the direction of the District Magistrate, Sitamarhi though the power vests in the District Education Establishment Committee. Simply because the District Magistrate is Chairman of the Committee, it does not empower him to take final decision without consulting the Committee.

2. It appears that the appellant was proceeded against on seven- fold charge which included the charge of consuming liquor during office hours on July 24, 1998, coming to the office in an inebriated condition and abusing staff of the office and obstructing the office work, remaining absent from duty without information, being irregular in his duty, embezzlement of money etc. The charges are indeed serious and I wonder whether in the event of the charges being proved any delinquent can be let off with the minor punishment of stoppage of one annual increment and that too as explained by the learned single Judge, with non-cumulative effect. In fact, he has also been allowed salary for the

suspension period which is contrary to Rule 97 of the Bihar Service Code which, provides that salary for suspension period can be paid only where the suspension is found to be wholly unjustified or where the delinquent is fully exonerated of the charge. The fact that the appellant was awarded penalty is indicative of the fact that he was not exonerated of the charge nor therefore, the suspension can be said to be wholly unjustified.

3. It is settled law that the High Court cannot interfere with the punishment awarded by the disciplinary authority but where such punishment is found to be disproportionate to the charge it can direct the authority to reconsider the matter as regards the nature and quantum of punishment. This principle is often applied where the delinquent is awarded harsh and excessive punishment than he deserves, considering the nature of the charge. We are of the view that on same principle where the charge is proved but the delinquent is let off with a minor punishment and it appears to the Court that the punishment is disproportionate to the charge, it can direct fresh consideration of the punishment. We see no reason why such an order should not be passed in this case. We would also observe that if the authority is not satisfied with the findings of the Inquiry Officer or the manner in which the enquiry was completed, it will be open to it to get fresh inquiry by a proper person.

4. We accordingly, direct the District Education Establishment Committee, Sitamarhi to consider the matter afresh in accordance with law and in the light of the observations made hereinabove. The impugned penalty of stoppage of one annual increment and payment of salary for suspension period will abide by the result of the enquiry and the decision in the above terms.

5. The appeal stands disposed of in the above terms.

Tarkeshwar Prasad Singh, J.

I agree.