
(2008) 04 PAT CK 0055
In the Patna High Court
Case No : CWJC No. 15226 of 2005

Rama Shankar Pandey

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 23-04-2008

Acts Referred:

Citation : (2009) 3 PLJR 473

Hon'ble Judges : Mihir Kr. Jha, J

Bench : Single Bench

Judgement

Mihir Kr. Jha, J.—Heard counsel for the petitioner as also counsel for the respondents. The petitioner in this writ application has assailed the order of punishment dated 5.6.2003 as also the appellate order dated 31.3.2006. Counsel for the petitioner submits that the appellate order, which has been passed during the pendency of this writ application and has been assailed by filing I.A. No. 2254 of 2008, would itself go to show that none of the issues pressed by the petitioner in his fourteen pages of memo of appeal have even been remotely considered while affirming the order of punishment dated 5.6.2003 passed by the Director of Welfare Department. He has further submitted that even the order passed on 5.6.2003 by the Director, Welfare is unsustainable especially when not only the principles of natural justice were not strictly adhered to in course of departmental enquiry but the petitioner has been punished on the basis of unproved charges by holding him guilty for all the charges though he had been partly exonerated by the enquiry officer in the enquiry report.

2. These allegations of the petitioner specifically pleaded and raised in this writ application have however been not controverted by the Respondent-State of Bihar by filing any counter affidavit. The counter affidavit, which has been filed by the counsel for the State of Jharkhand does not deal with the crucial issues inasmuch as no part of cause of action in respect of the departmental proceeding in question had arisen in the State of Jharkhand.

3. Thus on perusal of the pleadings on record, as also after hearing all the

parties, this court is satisfied that the appellate order dated 31.3.2006 is a bald and non-speaking order which does not reflect any application of mind by the appellate authority. It is well settled that an appellate authority is not required to give elaborate reasons while disposing of an appeal in course of affirming the order of punishment passed by the disciplinary authority but then such appellate order must reflect an application of independent mind on the issue raised before the appellate authority in the memo of appeal. As noted above, the petitioner had filed an appeal in fourteen pages and had raised several grounds while assailing the entire procedural aspect of the departmental enquiry as questioning the merits of the findings recorded by the enquiry officer. The appellate authority therefore, was required to record a reasoned order dealing with such contention of the petitioner even in brief. This aspect of the matter as with regard to requirement of the appellate order being speaking stands well settled by the judgment of the Apex Court in a number of cases including that of Karam Pal and Others Vs. Union of India (UOI) and Others, .

4. In such view of the matter, the appellate order dated 31.3.2006 being a completely bald and unspeaking order is hereby set aside and the matter is remitted back to the Commissioner-cum-Secretary of the Welfare Department, the appellate authority, who is directed to dispose of the appeal of the petitioner afresh by a reasoned order after application of his own independent mind. Such order must be passed by the appellate authority within a period of six months from the date of receipt/production of a copy of this order. With the aforementioned observations and directions, this application is disposed of.