
(2000) 09 PAT CK 0107
In the Patna High Court
Case No : L.P.A. No. 700 of 1999

Shankar Mishra and Others	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 26-09-2000

Acts Referred:

Citation : (2001) 1 PLJR 733

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : S.N. Jha, for the Appellant; Azfar Hasan and Shakeel Ahmad for State, for the Respondent

Final Decision : Dismissed

Judgement

1. This letters patent appeal is directed against the judgment and order, dated 13.5.1999 passed by a learned Judge of this Court in CWJC No. 1959 of 1998 at the instance of the Appellants. The writ petition was filed challenging the order removing the Appellants-Petitioners from service as Class III employees in the Health Establishment at Madhubani. The learned Judge declined to interfere with the order of removal holding that the so called appointment of the Appellants-Petitioners was sham and fraudulent. The learned Judge further pointed out that a large number of persons who were similarly removed from service on the basis of the directions given by this Court had also come in different batches, seeking to challenge their removal from service but all those cases were dismissed by this Court by different orders passed from time to time. In this regard, the learned Judge observed thus:

Counsel next submitted that similarly situated persons, who have been impleaded as Respondents 2nd set (Respondent Nos. 6 to 44) have been retained. I find that out of 39 persons comprising second set, 27 of them, namely, Respondent Nos. 6, 8 to 27, 32, 33, 37, 40, 43 and 44 had filed writ petitions (C.W.J.C. No. 1136/98 and analogous cases) which have been dismissed by detailed order on 3.5.99. After the judgment was delivered on 3.5.99, four more writ petitions

being C.W.J.C. Nos. 1268/98, 1580/98, 1761/98 and 1784/98 were dismissed on the same day as covered by that judgment. Respondent Nos. 7 and 39 herein figured as Petitioners in these cases. Earlier C.W.J.C. No. 2093/98 on behalf of three Petitioners was dismissed on 24.12.98. Respondent Nos. 29 and 30 herein figured as Petitioners in that case. It would, thus, appear that petitions of all similarly situate person who have approached this Court and whose cases have been taken up by the court so far, have been dismissed. The present case would, thus, appear to be covered by the aforesaid judgment and orders.

2. The facts of this case, that is to say, the manner in which the appointments in question were made, how the irregular appointments came to the notice of the court and how on the directions given by the High Court, the whole matter was examined by the authorities and action was taken for terminating the services of those concerned after giving them due notice and an opportunity of hearing has been dealt with in a number of judgments and orders passed by this Court. One can find all the relevant facts in the judgment and order of this Court in Ram Lakhan Thakur and Others Vs. The State of Bihar and Others, and in the order dated 24.12.1998 passed in CWJC No. 2093 of 1998 and the order dated 3.5.1999 passed in CWJC No. 1136 of 1998. The order coming under appeal also deals amply with the facts of the case. We, therefore, need not repeat them here. Suffice it to note that this letters patent appeal represents one of the last cases which had their origin in a transaction of sham, illegal and fraudulent appointments on Class III posts in the Health Establishment coming to meet the logical end.

3. Dr. S.N. Jha, learned Senior counsel appearing on behalf of the Appellants submitted that while the Appellants-Petitioners were removed from service, some other persons whose appointments were similarly made were still in service as in their case the necessary enquiry was still to be completed following the order given by a bench of this Court in another letters patent appeal. In view of this submission this Court on 2.5.2000 gave the following directions to the State counsel:

Apart from this, learned Standing Counsel No. VII has to inform the court as to what action has been taken by the authorities in view of the order passed in this case by a division bench on 18.1.2000 in relation to the Appellants in L.P.A. No. 549/1999 and other analogous cases, disposed of by this Court on 20.7.1999.

In pursuance of the aforesaid direction an affidavit was filed on behalf of the State in para 2 of which it is stated as follows:

That in pursuance of the High Court's order passed in L.P.A. No. 549 of 1999 with analogous case an enquiry committee has been constituted. There are 28 persons who appeared before the enquiry committee, out of whom 23 persons filed their reply of the show cause and 5 persons have not filed their reply. After due verification of the relevant papers and the documents, the enquiry committee found that their appointment is illegal and forged and recommended

for termination vide decision dated 24.6.2000. After that Civil Surgeon-cum-Chief Medical Officer, Madhubani, Bihar terminated them.

The Appellants' grievance was, thus, fully met on this score.

4. On the next occasion Dr. Jha contended that before passing the order of their removal from services, the Appellants-Petitioners were not given an opportunity of hearing and their removal from service was, therefore, violative of the principles of natural justice. Dealing with this submission, learned single Judge has observed as follows:

Counsel then contended that the impugned order is violative of the rules of natural justice since opportunity of hearing was not given to the Petitioners before passing the impugned order. From the materials on record, it appears that a committee was constituted to examine the validity of the appointment and 4.2.1998 and 5.2.1998 were fixed for hearing. The Petitioners did not turn up before the committee despite notice. This fact has been noticed in the impugned order also.

5. Apart from this on going through the materials on record we are also satisfied that the Appellants' removal from service does not warrant any interference by this Court on the ground of non-observance of the principles of natural justice. We find no merit in this appeal and following a number of orders in similar matters some of which were passed by this very bench in similar matters, we find that this appeal too is fit to be dismissed. It is accordingly dismissed.