
(1995) 08 PAT CK 0048
In the Patna High Court
Case No : C.W.J.C. No. 1331 of 1995

Shashi Bhushan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 14-08-1995

Acts Referred:

Citation : (1995) 2 PLJR 469

Hon'ble Judges : S.N. Jha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Jha, J.—The Petitioner has challenged the communications contained in letters dated 4.8.93 and 14.12.93 informing the Accountant General and the Petitioner about his retirement with effect from 31.7.93. He had come to this Court in C.W.J.C. No. 3130 of 1994. A Bench of this Court of which I was a member by a reasoned order dismissed the writ petition on 11.5.94. It appears from paragraph 21 of the writ petition (page 28 of the brief) that the order was challenged in the Supreme Court but the Supreme Court did not interfere with the order. The order of the Supreme Court has not been annexed to the writ petition and it is not known whether the Supreme Court passed any further order.

2. Mr. Durganand Jha, counsel for the Petitioner, was confronted with the above position and asked to explain how the same impugned order could be challenged over and again particularly when the SLP against the order of this Court has been rejected. Counsel made prayer to withdraw the writ petition. He, however, stated that the writ petition was filed as certain decisions were not brought to the notice of this Court earlier. It may be stated here that the previous writ petition (C.W.J.C. No. 3130 of 1994) was argued by a Senior Counsel who is now a Judge of this Court and Mr. Durganand Jha himself had assisted him. As the judgment would bear out the rule referred to and the judgments relied upon on behalf of the Petitioner were considered and distinguished. I am unable to appreciate as to how in such a situation a second writ petition could be filed challenging the same

very orders.

3. A lawyer has, no doubt, right to advise his client as to the remedy which he should seek in any matter. He is, however, expected to show due prudence and tender his advice according to the best of the understanding. I am conscious of the fact that no Court can say that the view that it, has taken of any matter is the correct view, for there is always the possibility of the superior Court agreeing with the view propounded by lawyer. But we have to go by the rule of finality of judgment. Any judgment or order which becomes final must be accepted to be correct particularly when it is challenged before the highest Court of the land and the challenge is rejected.

4. In the instant case, the grievance was rejected by this Court. It was open to the Petitioner and, indeed, his counsel to move this Court by way of review petition, notwithstanding the merit of any such petition. In that event, perhaps, there would have been no occasion for me to make these observations. But after the rejection of the SLP, the order of this Court would be deemed to have merged in the order of the Supreme Court and it is not open to this Court to examine the matter again. In the circumstances, I am constrained to think that the advice of the counsel was not in good faith. I was initially inclined to refer the matter to the Bar Council to examine the conduct of the counsel Mr. Durganand Jha but have decided to leave it to the discretion of the Petitioner to take appropriate action in the matter, if any.

5. For the reasons stated above, there is no question of interfering with the impugned order. The writ petition is, accordingly, dismissed.