
(2006) 03 PAT CK 0011
In the Patna High Court
Case No : CWJC No. 1360 of 2006

Shashi Bhushan Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-03-2006

Acts Referred:

Citation : (2006) 2 PLJR 271

Hon'ble Judges : V.N.Sinha, J

Bench : Single Bench

Judgement

V.N.Sinha, J.—Heard Sri Binod Kumar Kanth, Senior Advocate for the petitioners and Sri S.R. Ahmad for the State. Petitioners in the four writ applications were earlier serving as Executive Engineer, Assistant Engineer and Junior Engineer in the Road Construction Division, Dehri. They have filed these writ petitions assailing the order bearing Memo Nos. 9314(S), 9316(S), 9317(S) and 9318(S) dated 15.12.2005, Annexure-1, whereunder in consideration of the report of the Cabinet Vigilance Department, bearing letter No. 3869 dated 25.10.2005, Annexure-9 submitted in regard to the irregularities committed in repair/laying of the Sasaram Chausa Road, they have been placed under suspension in terms of the provisions contained in Rule 9 of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the Rules). They assail the said order on the ground that the Road Construction Department without appreciating the contents of the report dated 25.10.2005, Annexure-9 as also without applying its own mind to the findings recorded thereunder has proceeded to place the petitioners under suspension without even appreciating that no charge as alleged in that report is made out from bare perusal of the report as also the receipts appended to the writ petitions.

2. In this connection, learned counsel for the petitioners has made reference to the aforesaid letter dated 25.10.2005, which is contained in Annexure-9 to this application and has submitted that it was in compliance of the directions contained in the said letter, the Road Construction Department has issued the

impugned suspension order without applying its own mind. It is further submitted that if the receipts as contained in Annexure-3 series would have been taken into account then the shortage alleged would not have been there at all. Besides the aforesaid submission, learned counsel has also referred to the notification of the State Government in the Road Construction Department, bearing No. 6808 dated 15.9.2005, Annexure-11 whereunder for similar charges in regard to the same road, petitioner Shashi Bhushan Prasad, the Executive Engineer was already proceeded and exonerated.

3. Besides the aforesaid submission, learned counsel with reference to sub-clause (7) of Rule 9 of the Rules has submitted that till date the charge-sheet has not been served on the petitioners and if the same is not served within three months from the date of issue of the suspension order i.e. 15.12.2005 and the suspension is not renewed within the aforesaid period then the suspension of the petitioners shall automatically be revoked.

4. Learned counsel for the State, on the other hand, with reference to his counter affidavit, has submitted that the impugned suspension order against each of the petitioners was passed after due consideration of the report submitted by the Cabinet Vigilance Department alongwith the enclosures appended to the report dated 25.10.2005 and the allegation that the Road Construction Department without applying its own mind to the report has proceeded to place the petitioners under suspension is wholly devoid of merit. In this connection he further submitted that Memo of charge is likely to be served on the petitioner within a reasonable time and the proceeding shall commence and will be taken to its logical conclusion within a reasonable time from the date of service of Memo of charge.

5. Having heard counsel for the parties and having perused the impugned suspension order as also the report dated 25.10.2005, Annexure-9, I am of the view that the Road Construction Department having considered the report dated 25.10.2005, Annexure-9 has proceeded to place the petitioners under suspension, as such, the assertion of the writ petitioners that without application of independent mind by the Road Construction Department, they have been placed under suspension is not correct. The suspension order was issued on 15.12.2005 and very perusal of the same indicates that the same has been issued in terms of the provisions contained in Rule 9 of the Rules, Sub-Clause (7) whereof mandates that the Memo of charge should be served on the suspended employees within three months from the date of its issue, otherwise the suspending authority should renew the suspension order for another period of four months, failing which suspension itself shall stand revoked. The tenor of the aforesaid Rules indicates that the time frame provided thereunder is mandatory in nature, as such. If the Memo of charge is not served as also the suspension order is not renewed within three months from the date of issue of suspension order then it goes without saying that in terms of the Rule 9 of Rules itself the suspension order shall stand revoked.

6. In the event, Memo of charge is served on the petitioners within the aforesaid period of three months from the date of issue of suspension order then the authorities should proceed with the departmental proceeding expeditiously and conclude the same within a period of six months from the date of service of Memo of charge. With the aforesaid observation, these writ applications are disposed of. No cost.