
(2006) 11 PAT CK 0085
In the Patna High Court
Case No : C.W.J.C. No. 13560 of 2003

Shashi Kapoor Paswan

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 03-11-2006

Acts Referred:

Citation : (2006) 4 PLJR 649

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Shiva Kirti Singh, J.—Heard learned Counsel for the petitioner and learned Counsel for the State.

2. By impugned order contained in memo No. 1085 dated 8-6-2002 (Annexure-11) issued by Deputy Inspector General of Police, Central Range. Patna petitioner has been dismissed from service on the basis of finding of guilt recorded by Enquiry Officer in a departmental proceeding.

3. Petitioner who was Sub-Inspector of Police was admittedly served with memo of charges contained in annexure-3 and submitted his explanation as required by the authorities but the grievance of the petitioner is that he was never given any intimation regarding actual holding of the departmental enquiry and therefore, he could never appear and participate in the departmental enquiry. Petitioner has stated on affidavit that he received annexure-7 a notice dated 22-8-2001 on 12-9-2001 much after the date of the proceeding shown as 27-8-2001. It appears that enquiry was concluded by the Enquiry Officer on 30th August. 2001, before petitioner claims to have received Annexure-7 on 12-9-2001. petitioner's further grievance is that he was not served any copy of the enquiry report and thus without affording fair and reasonable opportunity to the petitioner to defend himself in the departmental proceeding he was dismissed from service by the impugned order dated 8-6-2002. Petitioner has also challenged through a

subsequent petition the appellate order contained in memo No. 2071 dated 7-10-2004 passed by Inspector General of Police, Patna, Range, Patna by which his appeal was rejected only after noticing that the Enquiry Officer had issued memo No. 2038 dated 17-8-2001 intimating the date of departmental proceeding to the petitioner.

4. In order to verify the claim of the petitioner that no notice of the actual holding of departmental enquiry was ever served upon him, learned Counsel for the State was requested to produce the original record and the same has been produced. It is not in dispute that there is no material on the record to show the service of the aforesaid memo dated 17-8-2001 upon the petitioner or even the date of service of notice dated 22-8-2001 (Annexure-7) which petitioner claims to have received on 12-9-2001 after the enquiry was concluded. Further there is no denial to the averment that copy of enquiry report was not served upon the petitioner before awarding him punishment of dismissal. In the aforesaid factual situation it has to be accepted that petitioner was not given fair opportunity to defend himself in the departmental enquiry. Hence the impugned order contained in Annexure-3 as well as the appellate order contained in annexure-14 are hereby quashed. The authorities shall appoint a suitable enquiry officer afresh within six weeks from the date of receipt of a copy of this order and inform the petitioner of the date of enquiry. For that purpose the petitioner must appear before the Superintendent of Police, it goes without saying that the enquiry shall be conducted in accordance with law giving reasonable opportunity to the petitioner to defend himself. It will be open to the petitioner to take all appropriate defence in the said enquiry and if so advised he may rely in that enquiry upon judgment of the criminal court said to have been passed in his favour. It is expected that the departmental proceeding against the petitioner shall be concluded in accordance with law within a reasonable time, preferable within six months from the date of production/communication of a copy of this order before the Superintendent of Police Nalanda.

5. The authorities shall keep in mind that if upon conclusion of enquiry any action is proposed to be taken then the petitioner must be given a copy of the enquiry report and an opportunity to submit his comments against that report.

6. The writ petition is allowed to the aforesaid extent.