
(2019) 05 PAT CK 0064

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 4499 Of 2015

Shiv Shankar Prasad Singh

APPELLANT

Vs

State Of Bihar Through Secretary And Ors

RESPONDENT

Date of Decision : 03-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 2 PLJR 1212

Hon'ble Judges : Madhuresh Prasad, J

Bench : Single Bench

Advocate : Awadhesh Kumar Mishra, Akay Kumar, Rita Rai, S.D. Yadav, Anil Kumar Verma

Final Decision : Dismissed

Judgement

Heard learned Counsel for the petitioner and the learned Counsel for the respondent State.

I.A. No. 5922 of 2017 has been filed praying for substitution of the name of wife of the original petitioner. It is prayed that Sanju Devi may be substituted in place of the original writ petitioner Sheo Shankar Prasad Singh on account of death of the petitioner on 27.12.2016.

The Interlocutory Application is allowed without any objection. Name of the petitioner may be substituted with that of his wife as per details in the I.A.

The petitioner was posted as Constable and was served with a charge memo on 28.4.2005, wherein it is alleged that on 23.4.2005 he had entered 5708 Dn Amrapali Express and started checking tickets of passengers and also snatched some money from two passengers. On commotion being raised, the petitioner refrained from his activities. Upon intimation to the authorities by the members of the Railway Protection Force, charge memo was served on the petitioner by the Railway Superintendent of Police as at that point of time the petitioner was in Government Railway Police.

Mr. Mishra, appearing for the petitioner, submits that it is a gross case of implication on basis of bias as members of the RPF were at loggers head with members of the GRP. It is his submission that the Enquiry Officer has proceeded in the matter without examining the two persons, whose names have been given in the charge memo, from whom it is alleged that specific amount was snatched. He relies on the decision of the Apex Court in the case of Kuldeep Singh Vs The Commissioner of Police reported in AIR 1999 SC 677.

This Court would observe that the nature of allegation is of snatching of money from two persons. The conduct of the petitioner by entering the coach, starting ticket checking and snatching money from the passengers surely is disgraceful to force. The petitioner's alibi that at that time he was posted at other post have been considered by the Enquiry Officer. The order of dismissal has been passed by the competent authority i.e. Railway Superintendent of Police, Muzaffarpur on 2.11.2005. The petitioner's appeal was rejected by the Deputy Inspector General on 12.7.2006. Even the memorial before the Director General of Police was rejected by order dated 27.10.2006.

The writ petition has been filed nine years after dismissal of his memorial and ten years after order of dismissal. The petitioner in his writ petition has made a reference to the dismissal of the other person namely Dhananjay Kumar Singh who had been served a charge memo along with the petitioner, to contend that since his dismissal has been set aside by the High Court in 2011, he has filed the writ petition after waiting for relief from the authorities. However, there is nothing on record to show that there is even any representation filed by the petitioner seeking parity with the said Dhananjay Kumar Singh. A mere averment has been made that he had approached the respondent authorities who assured him of the relief. The said submission is noted only to be rejected. The petitioner's departmental remedies had long been exhausted before the highest authority on 24.7.2009 itself. Such submission of the petitioner regarding assurance by the respondent authorities for relief so as to condone long delay of about ten years from the order of dismissal and nine years from the order of the DGP on the memorial is unsustainable. No reason, let alone sufficient cause, has been made out for approaching the Court after so much delay. It appears that merely because dismissal of the other chargesheeted namely Dhananjay Kumar Singh has been set aside by the High Court in 2011 the petitioner has approached this Court, that also after four years thereafter in the year 2015.

The State has brought on record the order passed in LPA in the case of said Dhananjay Kumar Singh. A Division Bench of this Court in LPA No. 1790 of 2012 has allowed the LPA and the judgment, whereby the dismissal of Dhananjay Kumar Singh was quashed, has been set aside. The order of the LPA Court is dated 29.3.2016 and is Annexure 'A' to the counter affidavit. Entire proceedings concluded long back. No reason, let alone sufficient cause, has been made out for approaching the court after so much delay.

In each and every case issue of delay and latches has to be considered in the

background of the particular case. There can be no hard and fast rule that delay would defeat or extinguish the legal rights of an individual for approaching Constitutional Court under Article 226 of the Constitution of India. Nonetheless, it is trite law that law does not side with the indolent and the writ court is not expected to show indulgence to indolent persons such as the petitioner, who without any reason, let alone adequate reason, has approached the writ court belatedly, i.e., ten years after his dismissal from service on 02.11.2005 and nine years after availing the final departmental remedy before the Director General. Order of the Director General, Police, Bihar, passed on the memorial filed by the petitioner is dated 27.10.2006.

In this connection this Court would rely on judgment of the apex Court in the case of Chennai Metropolitan Water Supply and Sewerage Board & ors. Vs. T. T. Murali Babu reported in (2014) 4 SCC 108, wherein Apex Court was considering challenge to order of appellate authority after before the High Court under Article 226 of the Constitution of India, a delay of four years. The appellate authority had dismissed the appeal against order of disciplinary authority dismissing petitioner from service.

In the circumstances the writ petition is barred by delay and laches and devoid of merit and the same is dismissed.