
(2021) 04 PAT CK 0040

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 19382 Of 2017

Shwetambar Jha

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

Date of Decision : 07-04-2021

Acts Referred:

Bihar Government Servants (Classification, Control And Appeal) Rules, 2005 — Rule 28

Citation : (2021) 04 PAT CK 0040

Hon'ble Judges : Vikash Jain, J

Bench : Single Bench

Advocate : Maya Shankar Mishra, Raj Kishore Roy

Final Decision : Disposed Of

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the respondents through video conference.

2. The following reliefs as formulated by the petitioner have been claimed in the writ petition -

"(i) For quashing the order dated 23.11.2017 passed by the learned Commissioner, Koshi Commissioner, Saharsa in Service Appeal No. 97 of 2016 whereby and whereunder the order bearing Memo No. 1151-2 dated 08.09.2016 passed by the District Magistrate, Supaul has been confirmed by which the punishment of compulsory retirement from service to the petitioner was inflicted; further for quashing the aforesaid order bearing Memo No. 1151-2 dated 08.09.2016;

(ii) For a direction upon the respondents to pay salary of petitioner from the date of issuance of Memo No. 1151-2 dated 08.09.2016 treating the petitioner in service giving the petitioner all legal and consequential benefits for which he is found to be entitled and further for any other relief/reliefs in the facts and circumstances of the case."

3. At the very outset learned counsel for the petitioner fairly accepts that there is statutory remedy by way of revision under Rule 28 of the C.C.A. Rules, 2005 against the impugned appellate order dated 23.11.2017 passed by the Commissioner, Koshi Commissioner in Service Appeal No. 97 of 2016. As such, the petitioner is capable of being granted the present relief in the statutory forum of revision.

4. Learned counsel for the State appears and affirms that the petitioner has alternative remedy by way of revision under Rule 28 of the C.C.A. Rules, 2005.

5. In the above view of the matter, this Court is not inclined to enter upon the detailed merits of the matter. The writ petition is disposed of granting liberty to the petitioner to approach the concerned authority in revision as may be available in accordance with law.

6. It is made clear that in case such a revision is filed, the concerned authority would have regard to the present proceeding being pursued by the petitioner while considering any issue relating to condonation of delay, if applicable.