
(2001) 03 PAT CK 0009
In the Patna High Court
Case No : L.P.A. No. 285 of 2001

Shyamsundar Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 27-03-2001

Acts Referred:

Bihar Pension Rules, 1950 — Rule 43

Citation : (2002) 4 PLJR 250

Hon'ble Judges : S.K. Katriar, J; Nagendra Rai, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal is directed against the order dated 22.2.2001 passed in CWJC No. 2466 of 2001 by a learned Single Judge of this Court whereby the writ application filed by the Appellant for quashing the initiation of departmental proceeding by order dated 16.11.2001, (Annexure-5 to the writ petition) has been dismissed.

2. The Appellant retired as Head Assistant on 31.1.1997 from the Water Resources Department, Govt. of Bihar. His pension was not being paid. Then he came to this Court in CWJC No. 9223 of 1999 and this Court taking notice of serious allegation against him directed the Superintending Engineer, Design Planning and Monitoring Circle, Anishabad, to examine all the allegations against the Appellant and conclude the inquiry as soon as possible, preferably within a period of six months from the production of a copy of the order before him. It was further ordered that if he comes to the conclusion that the allegations against the Appellant do not have merit, then he shall take steps for finalising the pension papers expeditiously. In case he comes to the conclusion that the allegations were prima facie correct, then it would be open to him to take action against the Appellant in accordance with law including action under the Bihar Pension Rules and initiation of criminal case against the Appellant.

3. The main ground, on which the order initiating departmental proceeding under Rule 43(a) of the Bihar Pension Rules was challenged, is that the event or the alleged misconduct, for which the departmental proceeding is being initiated, has taken place more than four years from the institution of the proceeding and as such there is legal bar for initiation of proceeding under Rule 43(a) of the Rules.

4. The learned Single Judge has considered this aspect of the matter and he has noticed that the misconduct alleged against the Appellant was in the nature of a continuing misconduct which continued even after his retirement and as such the said bar will not apply in his case. He also took the view that the proceeding was initiated in pursuance of the aforesaid direction issued by this Court.

5. We fully agree with the view taken by the learned Single Judge In our view, no case for quashing the initiation of departmental proceeding is made out. Accordingly, this appeal is dismissed. However, it will be open to the Appellant to raise all the objections permissible in law before the authority concerned.