

(2003) 12 PAT CK 0042

In the Patna High Court

Case No : L.P.A. No's. 762 and 832 of 1997

Sidh Nath Thakur

APPELLANT

Vs

Bihar State Electricity Board and Others
 Bihar State
Electricity Board and Others Vs Sidh Nath Thakur

RESPONDENT

Date of Decision : 09-12-2003

Acts Referred:

Citation : (2004) 1 PLJR 532

Hon'ble Judges : Ravi S. Dhavan, C.J;Shashank Kr. Singh, J

Bench : Division Bench

Advocate : S.N. Jha and Chakrapani, in L.P.A. No. 832 of 1997 and R.K. Dutta and Vinay Kirti Singh, in L.P.A. No. 762 of 1997, for the Appellant; R.K. Dutta and Vinay Kirti Singh, in L.P.A. No. 762 of 1997 and S.N. Jha and Chakrapani, in L.P.A. No. 832 of 1997, for the Respondent

Final Decision : Dismissed

Judgement

1. On facing disciplinary proceedings Sidhnath Thakur filed a writ petition against the Bihar State Electricity Board. This was C.W.J.C. No. 8874 of 1996: Sidhnath Thakur v. The Bihar State Electricity Board.

2. Any situation which the Petitioner Sidhnath Thakur may be complaining of was of his own making. The issue was on vacating the quarter when he was required to do so on the first transfer. Somehow or the other the Petitioner managed to retain the quarter for a period between 3 September, 1991 to 14 June, 1993. In between, he faced departmental proceedings, suspension and ultimate punishment for forgoing two increments with cumulative effect.

3. The learned Judge deciding the petition was of the view that requiring the Petitioner to pay penal rent and giving him punishment under the Service Code may amount to double jeopardy. Recovery of penal rent was, thus, stayed. The matter was remitted to the Board, to look into the entire matter afresh. The Petitioner virtually got away with a petition which had, in fact, succeeded.

Apprehending that the proceedings may yet chase him, the Petitioner filed a Letters Patent Appeal.

4. The Board has also filed an appeal. The contention of the Board is that these are matters of service discipline; that there is no such thing as double jeopardy in service law; that the Petitioner in any case overstayed in the accommodation without valid authority and, thus, he was liable to pay penal rent as also face proceedings as a consequence of his act which was subversive to discipline.

5. The Court has heard the two Appellants, that is, the Petitioner-Appellant Sidh Nath Thakur and the Counsel for the State Electricity Board.

6. The Court disagrees with both of them. This is not a matter which is isolated so as to be seen entirely from the eyes of the Petitioner Sidh Nath Thakur nor can be seen from the point of view of the Board. Each one of them has been scratching the back of each other to bring about this situation.

7. The Petitioner did overstay. He did make an attempt of extended stay in the accommodation. He kept applying incessantly to receive orders and he did manage to stay in the accommodation. The last recommendation rests with an order dated 7 August, 1992, a communication between the General Manager cum Chief Engineer, Muzaffarpur and the General Manager cum Chief Engineer, Patna. One General Manager recommends an extended stay of six months. He had no business to do this. If the Board wants discipline then it must discipline itself within its managerial cadre itself. The General Manager, Muzaffarpur was conveniently shedding his responsibility and passing the buck to the General Manager at Patna. He did make a recommendation of an extended stay of six months. Administratively he should have either rejected the representation or grant it with embarrassment. The moment he made a recommendation in so far as the Petitioner was concerned the latter was in hope. The discipline, i.e., the service discipline had been compromised. The Petitioner had succeeded in his attempt for an extended stay and the administration virtually joined him in this exercise. It did not have the backbone to take a clear-cut stand that extended stay in an accommodation cannot be had. In the circumstances, who is responsible between the two General Managers or any other, they are themselves liable for disciplinary proceedings for not being strict in administration.

8. The rest of the record which remains is thus the Petitioner's stay is recommended upto six months with effect from the date of the letter i.e. 7 August, 1992. This brings the Petitioner upto 7 February, 1993. In the circumstances, the Petitioner, in any case, is liable to pay whatever market rent there may be from 7 February, 1993 to 14 June, 1993. For attempting to insist to overstay in an accommodation where he was not meant to be, the Petitioner invited the disciplinary proceedings. Thus, the punishment which has been awarded remains.

9. On the side of the Board, the Chairman should see a stricter code in the

management and make an inquiry against the two General Managers who encourage indiscipline. What has happened in the matter of Sidh Nath Thakur is a necessary consequence of being slack in administration.

10. Both the appeals are dismissed with the modification in punishment as above.