
(2000) 03 PAT CK 0156
In the Patna High Court
Case No : C.W.J.C. No. 7614 of 1999

Sri Kameshwar Sharma

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 23-03-2000

Acts Referred:

Citation : (2000) 2 PLJR 834

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Judgement

S.J. Mukhopadhaya, J.—The Petitioner has challenged the order, contained in Memo No. 5 dated 2nd January, 1999, whereby and whereunder, he was relieved giving reference of an order of suspension, contained in Memo No. 7244 dated 12th November, 1997.

2. From the impugned order, it appears that the Petitioner was suspended on 12th November, 1997, but it was given effect by relieving the Petitioner, on 2nd January, 1999.

3. The counsel for the Petitioner relied on the letter issued by the Regional Education Officer, Patna, contained in Memo No. 594 dated 18th December, 1998 to show that the order of suspension dated 12th November, 1997 was not even sent, to his office nor the copy of the same was served on the Petitioner.

4. In the counter affidavit, the Respondents have taken plea that the charge sheet was served; enquiry officer appointed; and already submitted report. However, it appears that no final order has been passed thereon.

5. In view of the fact that the order of suspension was issued on 12th November, 1997, but it was given effect in respect of Petitioner, vide order dated 2nd January, 1999, the Petitioner will be entitled to receive salary for the period, he actually performed duty till order of suspension was actually served on him.

6. So far as order of suspension is concerned, I am not inclined to interfere with

the same at this stage, as enquiry report is stated to have been submitted by the Enquiry Officer.

7. In the interest of justice, I direct the Respondents to conclude the proceeding and pass final order in the proceeding within one month from the date of receipt/production of a copy of this order, failing which the order of suspension shall stand revoked on completion of such one month's period.

8. In such case, the Petitioner will be entitled for full salary on revocation of the order of suspension.

9. The Petitioner will produce a copy of this order before the Director, Primary Education, Patna.

10. Earlier this Court vide order dated 21st December, 1999 directed the Director, Primary Education to conduct an enquiry and to submit report as to how the Petitioner continued to function in spite of issuance of order of suspension and salary received till November, 1998.

11. An Enquiry Report No. 23 dated 19th January, 2000 submitted today in sealed cover.

12. From the said report, it appears that the order of suspension dated 12th November, 1997 was not served on any officer, because of intentional action on the part of one or other employee, though it was handed over to a clerk on 13th November, 1997 for service on the Petitioner. The file relating to suspension was not placed before the authorities for about an year and when it came to the notice of the authorities that the order of suspension could not be served on Petitioner, subsequent action was taken and relieving order was issued. The indirect hand of Petitioner for non-serving the order of suspension has been alleged therein, for which it appears that supplementary charge has been framed. The action taken in pursuance of such enquiry has also been shown therein.

13. In view of the report and as I find that a supplementary charge was also framed in respect of such allegation, I am not inclined to give any finding in one or other way.

14. As ordered, payment of salary of Petitioner made prior to the issuance of the relieving order, will depend on the date of service of the suspension order.

15. The writ petition stands disposed of with the aforesaid observations and directions.