
(2004) 08 PAT CK 0006
In the Patna High Court
Case No : C.W.J.C. No. 7029 of 2004

Sri Ram Prasad Jha

APPELLANT

Vs

Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 25-08-2004

Acts Referred:

Citation : (2004) 4 PLJR 282

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : Ashok Kumar Chaudhary, for the Appellant; Ramesh Kumar Datta for the Board, for the Respondent

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the resolution dated 29.12.1999 (Annexure-6) whereby the petitioner has been visited with the penalty of withholding of one annual increment with non-cumulative effect, entry of censure in his ACR for the year 1981-82 and nonpayment of any amount other than subsistence allowance for the period of suspension. Further prayer of the petitioner is to quash the communication dated 12.11.2003 (Annexure-1) whereby he has been informed that the appeal preferred by him against the aforesaid order, has been rejected. Short facts giving rise to the present application are that the petitioner, at the relevant time, was posted as Labour Welfare Officer, Electric Supply Division, Samastipur and the Bihar State Electricity Board, being, prima facie, satisfied that he is guilty of the charge of gross misconduct, dereliction of duty by way of making changes in the date of birth in the service book of one Shri Sheo Shankar Rai, skilled khalasi, placed him under suspension. Petitioner submitted representation dated 13.8.1999 for vacating the order of suspension. Same was considered and by impugned resolution dated 29.12.1999, the order of suspension was revoked and petitioner was inflicted the punishment aforesaid. Petitioner aggrieved by the same, preferred appeal and by communication dated 12.11.2003 (Annexure-1), he was informed that on consideration, his appeal has been dismissed by order

dated 10.5.2001.

2. It is relevant here to state that the aforesaid order dated 12.11.2003 simply informs the petitioner that his appeal has been dismissed but does not assign any reason for the dismissal of the same.

3. When the matter was taken up on 16.7.2004, the learned counsel appearing on behalf of the respondents was given time to verify as to whether the communication dated 12.11.2003 is the order rejecting the appeal or some separate order was passed. Thereafter, the matter was taken up on 27.7.2004 and on that date, this Court directed the respondents to "file a counter affidavit as to whether Annexure-1 is an order communicating the appellate court's order or it is the order itself and if so, let the order be brought on the record". No counter affidavit has been filed in the light of the aforesaid order. Petitioner, in paragraph no. 24 of the writ application has stated that there is absolutely no order giving reason has been passed by the appellate authority.

4. Mr. Ashok Kumar Chaudhary appearing on behalf of the petitioner submits that aggrieved by the order of the disciplinary authority, petitioner preferred appeal and raised several points but without assigning any reason his appeal has been rejected. This Court, all the times, impressed upon the respondents to bring on record any order passed by the appellate authority in this regard but nothing has been placed on record. In that view of the matter, there is no escape from the conclusion that the appellate authority had dismissed the appeal of the petitioner without assigning any reason and this itself vitiates his order.

5. Mr. Ramesh Kumar Datta appearing on behalf of the respondents states that the appellate authority of the petitioner shall be the Bihar State Electricity Board and his appeal has to be decided by the Board itself.

6. Let the Board take decision on the appeal preferred by the petitioner within three months from the date of receipt/ production of a copy of this order bearing in mind the observation aforesaid. In the result, the writ application is partly allowed. The impugned communication dated 12.11.2003 (Annexure-1) is quashed with the observation aforesaid. No cost.