
(2013) 07 PAT CK 0062
In the Patna High Court
Case No : CWJC No. 4258 of 2007

Sri Suresh Tiwary

APPELLANT

Vs

The Bihar State Electricity Board and Others

RESPONDENT

Date of Decision : 15-07-2013

Acts Referred:

Citation : (2013) 4 PLJR 702

Hon'ble Judges : Rakesh Kumar, J

Bench : Single Bench

Advocate : Ashok Kumar, for the Appellant; Dharmeshwar Mishra, for the Respondent

Judgement

Rakesh Kumar, J.—Heard Sri Ashok Kumar, learned counsel for the petitioner and Sri Dharmeshwar Mishra, learned counsel appearing on behalf of respondents/ Bihar State Electricity Board (hereinafter referred to as "Board"). The petitioner, while invoking extraordinary writ jurisdiction of this Court, has prayed for quashing of order contained in Memo No. 868 dated 29.3.2006 (Annexure "11" to the writ petition) passed by the Deputy Director, Personnel/respondent No. 5, whereby, after departmental proceeding, the petitioner was imposed following punishments:--

1. Nothing will be paid of suspension period except subsistence allowance,
2. Deduction of 5% permanently from whole amount of pension.
2. The petitioner has further prayed for quashing of order contained in Memo No. 2839 dated 9.11.2006 (Annexure "13" to the writ petition), whereby, appeal preferred by the petitioner has been dismissed.
3. Learned counsel for the petitioner has raised several points assailing the order of punishment. He further submits that though, there was provision of statutory appeal against the order of punishment and the petitioner preferred appeal, the Appellate Authority, without assigning any reason, had rejected the appeal. He

has specifically referred to Annexure-"13" to the writ petition.

4. Sri Dharmeshwar Mishra, learned counsel appearing on behalf of respondents/ Board had tried to defend both the aforesaid orders, but he was not in a position to satisfy the Court as to under what circumstances, once the appeal, preferred by the petitioner, was rejected without any reason.

5. The Court is of the opinion that if there is provision of appeal against an order of punishment, it is expected that appellate authority will examine the same on its entirety and if the appellate authority is not satisfied with the appeal, he can dismiss the same, but while dismissing, it is settled that some reasons are required to be assigned. On perusal of Annexure "13" to the writ petition, the Court is satisfied that no reason has been assigned and as such, this Court is not in a position to examine the appellate order on its merit. Since the appellate order is without any reason, it is not sustainable in the eye of law and accordingly, the appellate order i.e. Annexure-"13" to the writ petition is, hereby, set aside and the matter is remitted back to the same authority, with a direction to examine the appeal, preferred by the petitioner, on its own merit without being prejudiced with this order and pass appropriate order in accordance with law. The Court expects that the appellate authority will pass order in accordance with law, preferably within a period of two months from the date of receipt/ production of a copy of this order. With above observation and direction, the writ petition stands disposed of.