
(1994) 01 PAT CK 0024

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 805 of 1993 (R)

Syed Akhtar Rizvi

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 13-01-1994

Acts Referred:

Citation : (1994) 01 PAT CK 0024

Final Decision : Dismissed

Judgement

G.C. Bharuka, J.—In the present writ application the Petitioner seeks the quashing of the order dated 15-12-1986 (Annexure 1) passed by the Respondent Commissioner by which he has affirmed the order dated 3.6.1986 (Annexure 2) of the Deputy Commissioner (Respondent No. 3) awarding punishment of dismissal against the Petitioner in a departmental proceeding.

2. During the material period 1981-82, the Petitioner was posted as Revenue Karamchari in Churchu Anchal of Hazaribagh District. He was subjected to a departmental proceeding. As is evident from the charge-sheet dated 5.5.1983 (Annexure 5), the charge against him was that though one Smt. Rojline Remen was in possession of Plot No. 44 measuring 0.50 Decimals and Plot No. 48 measuring 0.80 Decimals of village Bujurgnano lying in Mandu P.S. for a long time and she had been residing thereon by constructing a house and well, but the Petitioner with malafide intentions forwarded a proposal for settlement of the said lands in favour of one Rameshwar Bhuiyan. Thereupon Land Settlement Record No. 16/80-81/7/81-82 was opened and the said lands were settled in favour of the said Rameshwar Bhuiyan. The said illegalities having been brought to the notice of the higher authorities by Smt. Rojline Remen, enquiries were made and it was found that the Petitioner had made wrong proposals to deprive the said tribal lady of her rightful claim. After a duly conducted departmental proceeding the Respondent Deputy Commissioner passed the impugned order (Annexure 2). He found the Petitioner guilty of fabricating official records in order to deprive a bonafide tribal lady of her rightful claim. Accordingly, considering the

said act a gross misconduct, the Petitioner was dismissed from service.

3. Against the said order of punishment (Annexure 2) the Petitioner preferred an appeal before the Respondent Commissioner As it appears from the records and also admitted by Mr. Banerjee, the learned Counsel for the Petitioner, the only question which was raised in appeal was regarding the quantum of punishment. The challenge was based on the ground that the Circle Inspector, Guljar Ram, who had acted on the proposal of the Petitioner and thereby passed an order of settlement in favour of the proposee Rameshwar Bhuiyan, had been awarded only a minor punishment of stoppage of increment in a separately drawn departmental proceeding. Therefore, according to the Petitioner, it was unjust to award a major punishment of dismissal against him. The learned Commissioner did not feel persuaded with the said plea and dismissed the appeal by holding that the Circle Inspector had merely acted on the basis of the proposal and the materials placed by the Petitioner before him. Therefore, according to the appellate authority the illegality committed in settlement of the lands in question in favour of an unauthorised person has to be primarily and essentially attributed to the Petitioner it has also been noticed by him that from the records it is clearly established that the Petitioner had tried to distort and conceal the facts in such a manner so that the poor tribal lady may not get her due.

4. Mr. Banerjee, learned Counsel appearing for the Petitioner, has submitted before me that in the facts and circumstances of the cases, the charge levelled against the Petitioner cannot be said to be graver than that levelled against the Circle Inspector and therefore, it will be wholly unjust and violative of the equality clause under Article 14 of the Constitution, if the punishment awarded to the Petitioner is allowed to be sustained. He has vehemently argued that as a matter of fact, it can well be presumed that since the lady had filed an application before the higher authorities alleging therein that the Circle Inspector had demanded a gratification of Rs. 1000/- for showing favour to her and since she had failed to oblige him, therefore, it was only at the instance and pursuation of the said Circle Inspector that the Petitioner had made manipulations in the records to deprive the lady of her rightful claim. According to him, under these circumstances, the person really guilty was Circle Inspector and not the Petitioner. In any view of the matter, even if the Petitioner is found to be guilty of some misconduct, considering the nature of the charge, the punishment awarded is too severe and is not commensurate with the gravity of the misconduct. In support of his submission he has placed reliance on the decision of Bhagat Ram Vs. State of Himachal Pradesh and Others, and Sardar Singh v. Union of India reported in AIR 1992 S.C. 417. He has also placed reliance on the decision of Punjab and Haryana High Court in the case of Swinder Singh v. The Director reported in 1988 (7) S L R 112, to substantiate his first submission assailing the punishment on the ground of discrimination.

5. It is a case in which the Petitioner as a Revenue Karamchari, with malafide intentions, in a plan manner, had made manipulations in the official records and

prepared wrong proposals to deprive a tribal lady of her rightful claim to have settlement of lands over which she has been residing for a long time and had constructed a house. It was on the basis of his proposal that the lands had been illegally settled in favour of an unauthorised person. If the mischief would not have been undone, one can only imagine of the plight which the tribal lady would have suffered. She might have been on roads without any shelter.

6. In my opinion, while considering the gravity of the misconduct of a public servant, it is essential to adjudge the act complained of, keeping in view the resultant sufferance of the public, particularly belonging to the illiterate, tribal and weaker sections of the society. Such cases cannot be placed at par with the cases in which the misconduct alleged relates to violation of service conditions only, without having any direct bearing on harassments and rights of the public. Weighing from this point of view, in my opinion, the Petitioner has rightly been dismissed from service. Any interference with the order of punishment will merely encourage corrupt practices prevailing in Government departments.

7. So far as the case of Swinder Singh (*supra*) is concerned, it has proceeded on the footing that if two persons are guilty of similar misconduct then two punishments one major and another minor cannot be awarded without any special reason. In my opinion, the said principle has no application in the present case. The appellate authority has assigned good reasons for affirming the punishment of dismissal against the Petitioner which I have already noticed above.

8. In the above view of the matter, no relief can be granted to the Petitioner in writ jurisdiction. Accordingly, the application is dismissed but without costs.