

(2012) 02 PAT CK 0129
In the Patna High Court
Case No : CWJC No. 11906 of 1998

Uday Kant Sharma

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Citation : (2012) 4 PLJR 155 : (2013) 3 SCT 394

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Devendra Kumar Sinha, Narendra Kumar Jha, Anant Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Shivaji Pandey, J.—No one appears on behalf of the petitioner to press this writ petition. This case was called out on 21.12.2011 and 9.2.2012 but on the aforesaid dates counsel for the petitioner was not present. However, learned counsel for the State was present on the aforesaid dates. Today when the case is called out no one appears on behalf of the petitioner to press this writ petition. Learned counsel for the State is present. This writ petition has been filed for quashing the notification issued vide memo no. 1156 dated 10.9.1998, issued under the signature of the Incharge Joint Secretary, Bihar Vidhan Sabha, Patna under orders of the Hon'ble Speaker, Bihar Vidhan Sabha, whereby notification no. 1535 dated 9.9.1997 issued under the signature of Deputy Secretary, Bihar Vidhan Sabha has been affirmed, dismissing the petitioner from service and also not to make payment of salary to him with effect from 9.9.1997.

2. Primarily the petitioner joined the services of the Bihar Vidhan Sabha as stenographer. While working there charge-sheet dated 18.2.1997 was issued to the petitioner relating to loss of very important file concerning to Animal Husbandry Case. On account of disappearance of the file, the Bihar Vidhan Sabha had to face very embracement situation. At one point of time the fodder scam case was being monitored by this Court. As it appears from the record of the

case that, after the charge-sheet was served on the petitioner, a departmental enquiry was conducted by the Enquiry Officer and after taking both oral and documentary evidence had come to a conclusion in his enquiry report dated 28.5.1997, contained in Annexure-7 to the writ petition, found the charges proved against him. On receipt of the enquiry report an order of punishment has been passed on 9.9.1997 (Annexure-9) but this order of punishment was subsequently, recalled on a review application filed by the petitioner by order dated 31.3.1998 (Annexure-11) on the ground that he was not supplied the copy of the enquiry report before passing the order of punishment dated 9.9.1997. Subsequently, the petitioner was supplied a copy of the enquiry report and his explanations were obtained and thereafter the present order of punishment has been passed.

3. After taking into consideration the plea of defence raised by the petitioner the petitioner was dismissed from service vide order dated 9.9.1997 and the same was affirmed vide order dated 10.9.1998 (Annexure-14) and from the record of the case it is apparent that before passing the order of dismissal there was compliance of natural justice as he was served the charge-sheet, thereafter an enquiry proceeding was initiated where he participated fully, after that he was given the enquiry report, sought his explanation and only thereafter the order of punishment was passed.

4. In this view of the matter, I do not find any error in decision. So far imposition of proportionate punishment is concerned, it appears that it was a case of missing of very important file which he was, required to be given to Hon''ble Speaker but that file has missed from his possession which he had admitted in his explanation. But later on he has given explanation that though he had handed over the file at the residence of the Hon''ble Speaker to some unknown persons and from there the file had missed and as such he could not be saddled with order of punishment. Looking to the gravity of the charge, I do not find any illegality in the order of dismissal. The order of dismissal cannot be said to be disproportionate nor can be categorized an unreasonable. As there is none to press this writ petition and I do not find any error in the decision making process as well as in the order of dismissal.

This writ petition is dismissed but without costs.