(2008) 01 PAT CK 0043

In the Patna High Court

Case No : LPA No. 818 of 2007

Vijay Kumar APPELLANT

Vs

Bihar State Electricity Board, Patna and Others RESPONDENT

Date of Decision : 30-01-2008

Acts Referred:

Citation : (2008) 2 PLJR 373

Hon'ble Judges : Rajesh Balia, C.J;Barin Ghosh, J

Bench : Division Bench

Advocate : Pramod Kumar Sinha, Madhukar Kr. Sinha and Arvind Kr. Sharma No. 1, for the Appellant; Vinay Kirti Singh, for the Respondent

Final Decision : Dismissed

Judgement

1. Having heard learned counsel for the parties we do not find any merit in this appeal. The writ petitioner-appellant has been charged in a departmental enquiry initiated by the Respondent-Bihar State Electricity Board (hereinafter referred to as ''the Board'') that he has kept money collected by him on behalf of the Board for sufficiently long time and has deposited that money after about one year of the collection indicating that the writ petitioner-appellant has used the Board''s money for his own use temporarily. The amount which was ultimately found to be deposited was Rs. 39,000/- and odd plus Rs. 15,000/- and odd received from the Cashier Mr. Bindeshwari Mandal in July, 1990. The money collection related to the period June, 1989 to September, 1989. It is in the aforesaid circumstances that in the departmental enquiry it was found that the charges have been proved. The fact that the writ petitioner-appellant has deposited the aforesaid amount on 17th July, 1990 was taken into consideration by the Board. The material for reaching the conclusion is that until deposit of the amount, the money remained with the writ petitioner-appellant. As a consequence of the aforesaid finding, the disciplinary authority imposed punishment of dismissal.

2. Learned counsel for the appellant states that firstly the appellant-writ petitioner moved an appeal before the Chairman of the Board and thereafter on

the advice of another Officer of the Board, he moved a mercy petition, also addressed to the Chairman. Finally, the Member (Finance) considered the application moved by the writ petitioner-appellant alongwith additional materials of two receipts of depositing money with cashier, which were alleged to have been found by the writ petitioner-appellant in school bag of his daughter after disciplinary proceedings were over while the receipts of the same period were allegedly looted in a dacoity while he was returning after collecting the money on behalf of the Board. This was not found credible by the learned Member (Finance) keeping in view the admitted fact that he has retained money for long before depositing with the Board''s account.

3. Considering all these aspects the learned Single Judge dismissed the writ petition challenging the order of dismissal and on the materials on record, we reach the same conclusion.

4. If retention of amount for long period is an admitted fact and the only explanation furnished by the writ petitioner-appellant that since there was no Bank account at the relevant time at Balia, where he was posted and the Bank account was at Begusarai, the money could not be timely deposited was also found to be not sustainabfe because of the fact that during same period, some amounts have been deposited regularly with the Bank account at Begusarai. If some amounts can be deposited, other amount could also be deposited. This was the clear indication that the writ petitioner-appellant has kept the Board''s money for his own use for sufficiently long time and the said finding is based on relevant materials. Thus the order of dismissal is not liable to be interfered with by issuing a writ of certiorari. Accordingly, the appeal fails and is hereby dismissed.