

(2003) 03 PAT CK 0035
In the Patna High Court
Case No : C.W.J.C. No. 11836 of 1999

Vijoy Prakash

APPELLANT

Vs

The New India Assurance Company Ltd.

RESPONDENT

Date of Decision : 24-03-2003

Acts Referred:

Citation : (2003) 2 PLJR 648

Hon'ble Judges : Chandramauli Kr. Prasad, J

Bench : Single Bench

Advocate : S.K. Agrawal and Shanti Pratap, for the Appellant; Shravan Kumar and Shola Sandhwar, for the Respondent

Judgement

Chandramauli Kr. Prasad, J.—This application has been filed for quashing the order dated 12.5.99 (Annexure-2) whereby the disciplinary authority inflicted the penalty of reduction by three stages in the time scale as a measure of punishment. Further prayer made by the Petitioner is to quash the order dated 16.11.99 (Annexure-1) whereby the appeal preferred by the Petitioner against the aforesaid order has been dismissed.

2. In view of the order which I propose to pass in this application it is inexpedient to give in detail the facts of the case. Suffice it to say that a departmental proceeding was initiated against the Petitioner allegedly for demanding an illegal gratification of Rs. 1,000/- for securing a job to the younger brother of the complainant Chansi Ram. The aforesaid allegation was the subject matter of a departmental enquiry as also investigation by the Central Bureau of Investigation in RC2(A)/96-Pat. dated 11.1.96. After the enquiry the conducting officer held the Petitioner guilty of the misconduct and agreeing with the same the disciplinary authority imposed the penalty and the appeal preferred by the Petitioner against the said order failed. After the aforesaid orders the Central Bureau of Investigation had submitted its report dated 24.2.2000 (Annexure-11) inter alia stating that it is very difficult to establish beyond reasonable doubt that the amount of Rs. 1,000/- which the Petitioner received from Chansi Roy did not

form part of the business transaction as claimed by the Petitioner. Accordingly, the Central Bureau of Investigation submitted the final report and did not forward the Petitioner for trial. The report so submitted by the Central Bureau of Investigation has been accepted by the Court. It is the stand of the Petitioner that after the said report was filed (Annexure-13) Petitioner filed application for reconsideration of the penalty and his grievance is that on said application no decision has been taken.

3. Mr. Sharwan Kumar, Senior Advocate appearing on behalf of Respondents 1 to 6 submits that the Petitioner had chosen a wrong forum by approaching the Regional Manager for re-consideration of the penalty and that is the reason that no decision has been taken. He points out that the competent person to reconsider the decision is Respondent No. 2 and the Petitioner having not chosen to invoke the remedy before him, no order has been passed.

4. Having heard Mr. S.K. Agrawal for the Petitioner, Mr. Sharvan Kumar for Respondents 1 to 6 and taking into consideration the facts and circumstances of the case, I am of the opinion that the Petitioner shall be well advised to represent before Respondent No. 2 for reconsideration of the penalty imposed on him, or account of the final report submitted by the Central Bureau of Investigation. In case such a representation is made before Respondent No. 2 within four weeks, Respondent No. 2 shall consider and dispose of the same within two months from the date of presentation of the representation. Needless to state that while disposing of the representation, Respondent No. 2 shall assign brief reason.

5. It is made clear that I have not expressed any opinion in regard to the merit of the case of the parties.

6. Application stands disposed of with the direction aforesaid.