

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10311 of 1995

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Rajeshwar Prasad Sinha, son of Shri Baleshwar Prasad Sinha, resident of village and P.O. Anuan, P.S. Karpi, District Jehanabad

.... Petitioner

Versus

1. The State of Bihar, through the Presiding Officer, Labour Court, Patna, Bailey Road, Patna- 800001
2. M/s Weston Electronics Ltd., Okhla Industrial Estate, New Delhi- 110020
3. Dy. General Manager (Admn.) M/s Weston Electronics Ltd., Weston house, Okhla Industrial Estate, New Delhi- 110020
4. The Regional Manager, M/s Weston Electronics Ltd., Srikrishna Nagar, Road No.25, House No. M-31, Patna- 800001

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sourendra Pandey, Adv.

For the Respondent/s : Mr. A.N.Singh, SC8

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

6 30-01-2015 Heard learned counsel for the parties.

Having regard to the prayer made in this writ application for quashing an order of the Labour Court in B.S.E.Case No. 48 of 1989 when this Court has carefully gone into the order of the Labour Court it does not find any manifest error going to the root of the matter.

Let it be noted that the petitioner was subjected to a criminal proceeding followed by a departmental proceeding and even when in the criminal proceeding he had been acquitted in the departmental proceeding he had been held guilty for committing misconduct by way of shortage/ theft of the articles entrusted to him in form of 15 T.Vs.

It is this aspect which has been gone into at length by the Labour Court by framing the following two main issues:

- “(i) As the service of the complainant has been dispensed with on misconduct, have the employer- O.Ps. been able to prove that their action was based on an enquiry held for the purpose supported by satisfactory evidence in which the employee concerned was given an opportunity to defend himself and explain the circumstances alleged against him?
(ii) Have the O.Ps. been able to prove the charges of misconduct against the complainant before this Court on the strength of satisfactory oral and documentary evidence and whether the complainant on his turn has succeeded in challenging the impugned order to be bad both on facts and in law?”

The discussion made by the Labour Court as with regard to both the issues is quite elaborate and a finding has been recorded that there was an enquiry in which the complainant was given an adequate opportunity but he himself walked off out of the proceeding of the enquiry and did not avail the opportunity of examining his own witness and put forward his own case.

Having regard to this finding which has also not been questioned this Court is not inclined to go into such finding of the Labour Court. Secondly, the Labour Court again has gone into the other main issue and has found that there were adequate evidence to prove that the petitioner was entrusted with the articles in

question and therefore, if they were found to be missing the petitioner alone was held to be responsible. The plea of the petitioner being absent at those period was also gone into in course of enquiry and was not found to be established.

In any event the main plank of the petitioner before the Labour Court of his being acquitted in the criminal case and therefore, not liable to be punished in the departmental proceeding was definitely his misconceived notion because by-now it is well settled that the standard of proof in respect of proof of charge in a criminal case and in a departmental proceeding are on two different basis. In a criminal case the prosecution has to prove the case beyond reasonable doubt, whereas in a departmental proceeding it is the preponderance of probability which is the deciding factor. Thus when the Labour Court has also examined this aspect with all seriousness, this Court now in exercise of power under Article 226 of the Constitution of India will not find any reason to interfere with such order.

That being so, this application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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