

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4803 of 2001

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Geeta Singh wife of late Arun Kumar, resident of Mohalla Nehru Nagar,
P.S.Patliputra, Dist. Patna- 13, at present Assistant Depot Manager (Baithak
Shakha), Biscomaun Bhaan, west of Gandhi Maidan, Patna

.... Petitioner/s

Versus

1. Administrator, Biscomaun West of Gandhi Maidan, Patna
2. The Secretary, Biscomaun, West to Gandhi Maidan, Patna
3. Special Officer (Administrative) cum Enquiry Officer, Biscomaun, West to
Gandhi Maidan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Aditya Narain Singh
Mr Kundan Kumar Sinha
Mrs Rita Verma

For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 21-05-2015

Heard counsel for the petitioner.

There is none on behalf of the respondents, nor a counter affidavit has been filed in a matter, which is pending since the year 2001. The Court, therefore, decides to proceed in the case on the basis of the available material.

Annexure- 1 is the order dated 28.11.2000, by virtue of which an order of punishment for recovery of Rs.46, 447.17 was ordered and two increments with cumulative effect was stopped.

The background story is that the petitioner was an Assistant Store Keeper of the Central Coal Depot, Kankarbagh. It is said that during 1.7.1987 and 2.7.1987, two truckloads of coal



amounting to 21.035 tonnes with a tentative cost of Rs.13690.35 was sent to the said depot. It is alleged that the petitioner neither granted receipt thereof nor entered the same in the stock register. Such a conduct of the petitioner amounted to misconduct as well as showed her intent to misappropriate the coal and caused loss to the institution.

On the above allegation, an enquiry was held and the two orders of punishment, which is under challenge, came to be imposed.

Learned counsel representing the petitioner submits that the matter related to the dates 1.7.1987 and 2.7.1987. The enquiry was initiated after almost nine years of the so-called incident. No explanation is there as to why it took so long for the respondents to discover or to charge the petitioner with the said allegation.

The second aspect pointed out by the petitioner is that Biscomaun was superseded and Administrator was appointed by the State Government and therefore, he virtually became the appellate authority as well as the disciplinary authority. The right of the appeal, therefore, was taken away and the award of the punishment by the Administrator virtually amounted to the role of a prosecutor as well as a hangman.

The Court has gone through the material. It does not find any clear and categorical evidence that the two trucks of coal

received by the petitioner was misappropriated. The allegation is of intent but no finding has been reached on any evidence that the reason for non- grant of receipt or entering it in the stock was with the object of causing loss or the coal was misappropriated by the petitioner.

In fact, the material is contrary to the allegation. The petitioner had written to the superior authorities that the coal, which was dispatched to the central coal depot, had less of coal and more of mud and earth mixed with it. It was not saleable, therefore, the petitioner put up resistance in receiving such commodity as well as entering it in the stock and wanted guidelines from the superior as to what is required to be done with such kind of so-called coal, which was sent for sale.

No directive came and therefore, the matter stood still at that and after nine years a unique kind of enquiry without any proper evidence led to imposition of punishment in question.

Counsel for the petitioner also points out that there was supposed to be some other persons like Harendra Singh and Bhola Nath Singh. An FIR was lodged against them for the same set of charges. In their case, they came to be acquitted by the court because no case was made out for misappropriation.

Petitioner was way down the line as incharge of the depot

and she cannot be judged on a different scale than the superior authorities.

In totality, therefore, the punishment of recovery and that too from the petitioner with imposition of 18% interest over the so calculated amount of 13690.35 seems to be irrational and arbitrary. The conduct of the petitioner and the findings which led to the conclusion that whatever she did was with the object of causing any loss or personal gain is misplaced. If this is so withholding of two increments with cumulative effect also seems to be misplaced.

Writ application is allowed. Annexure- 1, dated 28.11.2000 is quashed.

(Ajay Kumar Tripathi, J)

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