

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15232 of 2008

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1. Sumitra Devi widow of Rama Kant Chowdhary, son of late Raghu Nandan Chowdhary
 2. Indra Raj Vishnu son of late Rama Kant Chowdhary
 3. Amrit Raj Vishnu, son of late Ram Kant Chowdhary
- All residents of Road No.8, Indrapuri, Police Station – Patliputra, District
– Patna.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Forest and Environment, Govt. of Bihar, Patna.
2. The Principal Chief Conservator of Forest, Bihar, Patna Technology Building, 4th Floor, Patna.
3. The Conservator of Forest, Patna Circle, Patna, Nehru Nagar, Patna-13.
4. Divisional Forest Officer cum Enquiry Officer, Patna Forest Division, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. JITENDRA PD.SINGH

For the Respondent/s : Mr. Asit Kumar Jha, AC to GP 6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 07-05-2015

The original petitioner Rama Kant Chowdhary is no more.

2. I.A. No. 1251 of 2013 has been filed for bringing on record the legal heirs whose names figure in para 2.

3. I.A. is allowed.

4. Initially the writ application was filed against the initiation of a departmental proceeding against the erstwhile employee, who was an Office Superintendent under respondent No.3. Another prayer was to quash the second show-cause.

5. The whole dispute arose because petitioner was not willing to accept the order of transfer issued against him. He agitated the matter before the



High Court without success either at the level of the learned single Judge or the Division Bench. In the meantime, respondent authorities decided to initiate a departmental proceeding against the petitioner. In the departmental proceeding also petitioner chose not to cooperate or participate despite notice and information to him. To that extent the departmental proceeding was an ex parte proceeding but then the reason is attributable to the erstwhile petitioner, which is evident from reading of the materials brought on record both in the writ and the counter affidavit.

6. The erstwhile petitioner embarked upon the path of non-cooperation by choice whether it was a non-acceptance of the order of transfer or participation in the departmental enquiry. The order of punishment thereafter came to visit the petitioner, which has been brought on record as Annexure-9 with I.A. No. 3768 of 2009.

7. In normal course of things, the Court would have rejected the I.A. since Annexure-9 is a separate cause of action. It is also a fact that there is statutory right of appeal against the order of punishment. But since the erstwhile employee is dead, this IA also, which is IA No. 3768 of 2009, is allowed.

8. After giving an extensive hearing to the counsel for the petitioner as well as the State and taking the totality of the materials and the conduct of the employee into consideration, the order of punishment to that extent cannot be said to be bad. But, however, the Court is inclined to quash that part of the order where 10% pension was withheld besides the order of recovery which was also made.

9. Keeping in view that the order of withholding 10% pension will have a fall-out on the siblings as well as family members, the Court quashes the order of withholding 10% pension passed against the employee, dated 21.4.2009, contained in Annexure-9. However, other part of the order of

punishment is not inferred with.

10. Writ application is allowed with a direction that the legal heirs will now receive full pension as well as arrears of pension from the date of issuance of the order of punishment dated 21.4.2009.

11. Writ is allowed to the extent indicated above.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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