

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1974 of 2010

IN

Civil Writ Jurisdiction Case No. 1002 of 2005

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Satya Narayan Mishra, S/O Late Subansh Mishra, R/O Vill.- Chandauna, P.S.-
Jalley, Distt.- Darbhanga, the then Store-Keeper-cum-Cashier, Common Facilities
Service Centre, Darbhanga

.... Appellant/s

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary Department of Industries, Bihar, Patna
3. The Director of Industries, Government of Bihar, Patna
4. The General Manager, District Industries Centre, Darbhanga
5. The Conducting Officer, Shree Achabat Ram the Joint Director, Industries,
Bihar, New Secretariat, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Shamimul Hoda, Advocate

For the Respondent/s : Mr. Alok Ranjan, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 26-07-2016

Heard learned counsel for the appellant.

Present appeal is directed against the judgment
and order of the learned Single Judge dated 16.08.2010, passed in
C.W.J.C. No. 1002 of 2005 (Satya Narayan Mishra Vs. The State of
Bihar and others).

The writ petition was filed for setting aside the
order of dismissal of the petitioner-appellant solely on the ground that
in the criminal case he has been acquitted. The learned Single Judge

did not agree to the submission and dismissed the writ petition, rightly so in our view.

It is not in dispute that a disciplinary proceeding was initiated against the petitioner-appellant on charges of huge defalcation, irregularity in accounts, misappropriation of Government funds. Ultimately, after following the procedure of the departmental proceedings in 1991 the petitioner-appellant was dismissed. He preferred statutory appeal and a revision without success. He then filed a writ petition, which was also dismissed. He also filed review application which met the same fate before the Division Bench. In the meantime, a criminal prosecution was also lodged and pursuant to the trial in the year 1998 petitioner- appellant was convicted. However, he was acquitted by the appellate court and the Government appeal against the appellate order was also ultimately dismissed by this Court. It is, thus, submitted by the petitioner-appellant that the criminal court on the similar facts having acquitted the petitioner-appellant and the acquittal having attained finality, the dismissal order ought to be now set aside and / or recalled, cannot impress us. Even on the same set of facts the departmental proceedings and the criminal proceedings may come to different heads or results. The reason is simple and well-understood. In a departmental proceeding, which is civil in nature, it has to be decided on basis of preponderance of

evidence, whereas in a criminal proceeding the same is decided on basis of proof beyond reasonable doubt. Evidence may be acceptable in the departmental proceeding but may not stand the scrutiny in a criminal court, hence, different results on similar facts.

Thus, we see no reason to interfere in the matter.

This appeal is, accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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