

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2844 of 1999

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Motilal Vidhyarthi, S/o Shri Mahabir Rajak, Resident of Village Ramchandrapur, P.S. Murarpur, P.O. Biharsharif, District-Nalanda at present posted as Deputy Commissioner, Commercial Taxes, Vigilance, Monitroing, Darbhanga Division, Darbhanga

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Commissioner of Commercial Taxes cum Special Secretary, Finance (Commercial Taxes) Department, Bihar, New Secretariat (Vikash Bhawan), Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Pandey, Advocate

For the Respondent/s : Mr. Kinkar Kumar (SC27)

: Mr. Sushant Praveer AC to SC 27

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 04-01-2016

The writ application has been filed for quashing the Memo dated 10th February, 1999 suspending the petitioner in contemplation of departmental proceeding under rule 55 of the Civil Services (Classification, Control and Appeal) Rules 1955.

A further prayer was made for quashing the departmental proceeding and for grant of consequential promotion. It appears that the petitioner was posted as an Officer in Commercial Tax Department. He was departmentally proceeded for various charges relating to the loss of Government revenue. He was suspended in year 20.09.1991 and a



departmental proceeding was initiated against him. In spite of repeated calls of this court the departmental enquiry was not concluded. By way of last chance, this court vide order dated 04.08.1998 passed in C.W.J.C. No. 4089 of 1997 observed that if the departmental proceeding is not completed by 30th December 1998, the charges against the petitioner shall stand quashed. As the proceeding was not concluded within time, the charges against the petitioner stood quashed in terms of order of this court.

A second enquiry was started against the petitioner in the year 1999. He was also put under suspension. The petitioner challenged the order of suspension as well as initiation of a fresh departmental proceeding, the departmental proceeding remained in a stage of limbo for a considerable period and the petitioner superannuated on 31st March 2003. The writ petition finally came for hearing on 19.07.2004.

The contention of the petitioner before the court was that he has retired in 2003 and no proceeding in terms of Rule 43-B of Bihar Pension Rules has been initiated against him.

The learned single Judge observed that by efflux of time, the petition has become in fructuous. It would be open for the petitioner to agitate the matter for grant of promotion and payment of consequential monetary benefits.



Being aggrieved the State went into appeal in L.P.A. No. 1179 of 2014. The L.P.A. Bench vide order dated 18.02.2015 set aside the order dated 19.07.2004 passed by the learned single Judge for fresh consideration. The L.P.A. Bench observed that an obvious error crept in the order dated 19.07.2004 as the proceeding under Rule 43-B of the Bihar Pension Rules was started on 29.08.2003 itself.

In view of the order of L.P.A. Bench, the case has now been listed before this court. No one appears for the petitioner to assist the court in the matter. The State Counsel is not in a position to state the present status of the proceeding.

On the other hand, as the matter is of the year 1999, I do not propose to keep it pending. The writ application can be disposed of in the following terms:-

- (a) In case, if the proceeding under Rule 43-B of the Bihar Pension Rules has come to its logical conclusion and the petitioner is aggrieved by the final order in the matter, it would be open for him to challenge the same in accordance with law.
- (b) In case, the proceeding has not been completed as yet, I do not keep it



appropriate to allow further indulgence in the matter. If the proceeding under Bihar Pension Rules has not yet concluded, the same should be concluded within a period of four months from the date of this order, failing which the proceeding would stand quashed, as it would be unfair to allow a proceeding to continue for an unduly long period.

The State Counsel would communicate the order to all the authorities forthwith.

The writ petition disposed of accordingly.

(Samarendra Pratap Singh, J)

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