

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.558 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 10122 of 1994**

Subhchandra Mishra, Son of Late Purushottam Mishra, Resident of Dhanga Pachhwari Tola @ Thanga Pechhwari Tel, Post- Thanga Pechhwari Tel @ P.O. Dhanga, Distt. - Madhubani.

.... Appellant

Versus

1. The State of Bihar
2. The Presiding Officer, Industrial Tribunal , Patna.
3. The Managing Director, Bihar State Road Transport Corporation, Patna.
4. The Divisional Manager, Bihar State Road Transport Corporation, Dhanbad.

.... Respondents

Appearance :

For the Appellant : Mr. Jai Prakash Verma, Advocate.

For the State : Mr. Saroj Kumar Sharma, A.C. to A.A.G. 5.

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 23-06-2016

Re.:I.A. No. 2474 of 2015

The application is for condonation of delay of 273 days in filing the Letters Patent Appeal.

2. For the reasons mentioned in the Interlocutory Application, we are satisfied that the appellant has shown sufficient cause to seek condonation of delay of 273 days in filing the present Letters Patent Appeal.

3. Consequently, Interlocutory Application No. 2474 of 2015 is allowed and delay of 273 days in filing the Letters Patent

Appeal is condoned.

Re.: L.P.A. No. 558 of 2015

The order dated 16th of August, 2013 passed by the learned Single Bench of this Court in C.W.J.C. No. 10122 of 1994 is subject matter of challenge in the present Letters Patent Appeal. Vide the aforesaid order, the learned Single Bench has not interfered with the order passed by the Industrial Tribunal on 30th of August, 1994 confirming the order of dismissal of the appellant under Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act”).

2. Learned counsel for the appellant has vehemently argued that the appellant was exonerated by the Disciplinary Authority but without recording any reasons of disagreement, the Managing Director proceeded to impose punishment which punishment has since been approved by the Industrial Tribunal.

3. The learned Tribunal confirmed the order of dismissal after examining the evidence in detail finding that illicit video cassettes in large number were found in the bus on two occasions when the appellant was in-charge of the bus as Conductor. Consequently, the order of dismissal passed by the Managing Director on 28th of December, 1992 was affirmed.

4. The Industrial Tribunal while exercising the power

under Section 33(2)(b) of the Act has jurisdiction to examine the evidence as a Disciplinary Authority in terms of the provisions of Section 11A of the Act. Since the Industrial Tribunal has examined the evidence in detail itself; the Industrial Tribunal acting as a Disciplinary Authority, has a right to impose punishment as it deems appropriate. In these circumstances, any irregularity in the Disciplinary Proceeding by the Management is of no consequence when the Management proves misconduct before the Industrial Tribunal in terms of Section 11A of the Act.

5. Since the Industrial Tribunal has found the misconduct proved against the appellant, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present intra court appeal.

6. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./P.Kumar
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