

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18525 of 2012

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Ram Ekbal Singh, Son Of Late Ram Karan Singh of Village- Sukhpara, P.S. Rampur, Chauram, District- Jehanabad Now Arwal. At Present Residing at Village & P.S. Goh, District- Aurangabad

.... Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Water Resources, Govt. Of Bihar, Patna
3. The Under Secretary, Department of Water Resources, Govt. of Bihar, Patna
4. The Chief Engineer, Department Of Water Resources, District- Aurangabad
5. The Superintending Engineer, Ganga Sone Flood Control, Anchal Patna
6. The Executive Engineer, Irrigation Sub-Division, Daud Nagar, Aurangabad
7. The Executive Engineer, Sone Canal Division, Khagaul, Patna

.... Respondents

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Appearance :

For the Petitioner/s	: Mr. Sunil Kumar Singh, Advocate Mr. Ranvijay Singh, Advocate
For the State	: Mr. Md. Raisul Haque, S.C.-10 Md. Obaidullah, A.C. to S.C.-10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 13-12-2017

Heard learned counsel for the petitioner and learned
counsel for the State.

2. In this case, the petitioner is claiming that on account of order passed by this Court in Criminal Revision No.1918 of 2009, in which he has been acquitted, entails the benefit of reinstatement in service.



3. The petitioner was appointed in the Irrigation Department on 01.01.1966, his service was regularized in the year 1969 and he was promoted to the post of Irrigation Revenue Inspector in the year 1989 and was posted at Haspura Camp Bandhwa, P.S.-Devkund, District-Aurangabad. He was put under suspension vide memo no.862 dated 29.05.1993 for disobedience and negligence in duty and was directed to join head-quarter. Whereafter, he approached the Circle Officer and demanded document to prepare the statement for making over the charge, but the petitioner was directed to hand over the charge without delay. At the same time, an application was filed by the petitioner that documents were not supplied to him. Parallely, a criminal case was also lodged against the petitioner vide Devkund P.S. Case No.25 of 1993 under section 409 of the Indian Penal Code, whereafter he was taken in custody but granted bail on 09.11.1993. When the documents were not handed over, the petitioner approached this Court in C.W.J.C. No.7803 of 1994 to quash the suspension order. This Court directed to complete the proceeding within five months from the date of receipt/production of a copy of the order and the petitioner was also directed to co-operate in the departmental proceeding. The Court has made it clear that in the event the petitioner failed to extend co-operation, the department would be at liberty to pass *ex-parte* order



and if the proceeding is not concluded and final order is not passed within the stipulated time, the suspension order will be treated to have been revoked. Whereafter, the departmental proceeding was initiated and the charges were found to be proved against the petitioner. The inquiry report was submitted and ultimately, the service of the petitioner was terminated on 18.01.1996, which has been upheld by the appellate authority vide order dated 05.06.1998. Against the said order the petitioner filed a writ petition being C.W.J.C. No.7424 of 2006 before this Court, which has been dismissed on account of delay and laches. In such manner, the order of the appellate authority attained finality.

4. It is an admitted fact that the petitioner has not challenged the order passed in C.W.J.C. No.7424 of 2006 at higher level and as such, it will operate as *res-judicata* against the petitioner in subsequent proceeding. In the criminal case, up to the appellate level the charges were found proved against the petitioner, against which Criminal Revision No.1918 of 2009 was filed before this Court and vide order dated 19.01.2012 the petitioner has been acquitted from the criminal case. The order of the Criminal Revision is based upon laches on the part of the prosecution as they failed to conduct case properly, led to acquittal of the petitioner, but so far the



departmental proceeding is concerned it has attained finality much earlier. Even the subsequent acquittal in criminal case cannot be a basis for setting aside the order of termination. The jurisprudence of proving the criminal case vis-à-vis departmental proceeding are quite different as in the criminal case the charges have to be proved beyond reasonable doubt, whereas in the departmental proceeding the theory of preponderance applies as well as the strict rule of evidence does not apply in the departmental proceeding. Fairness and probity is the hall-mark of departmental proceeding, which has already attained finality, mere acquittal of criminal charges cannot be basis for setting aside the order passed by the competent authority, which has already been affirmed by the appellate authority and that too has not been entertained by this Court.

5. In such view of the matter, this Court does not find any merit in this writ application. Accordingly, this writ application is dismissed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	20.12.2017
Transmission Date	N/A.

