

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1091 of 2014
IN
Civil Writ Jurisdiction Case No. 10561 of 2008**

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1. The Principal Secretary, Deptt. of Agriculture, Bihar Patna-Cum-Chairman,
Bihar State Seed Certification Agency, Mithapur Agriculture Farm, Patna-1
2. The Director, Bihar State Seed Certification Agency, Mithapur Agriculture Farm,
Patna-1

.... Appellants

Versus

1. Kumar Dharmendra Narayan Singh S/o Late Dharmpal Singh, R/o Vill-
Durgapur, P.S.- Dharhara, Distt.- Munger
2. The State of Bihar

.... Respondents

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Appearance :

For the Appellants : Mr. Mukesh Kumar, Advocate

For the Respondent State: Mrs. Nutan Sahay, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 01-05-2017

There does not seem to be any merit in the present appeal which has been preferred against the order dated 16.06.2014 passed by the learned single Judge in C.W.J.C. No. 10561 of 2008. The appeal is more to satisfy personal egos of certain officials rather than in the interest of administration and fair play.

2. A disciplinary proceeding was initiated way back in the year 1995 against the private respondent who was a Class III employee under Bihar State Seeds Certification Agency. He was dismissed from service on 04.11.1996. That order of dismissal was set aside in a writ application, namely, C.W.J.C. No. 1629 of 1997,



with liberty to proceed afresh in accordance with law.

3. In the second round of litigation, the private respondent filed a writ, C.W.J.C. No. 6916 of 1999, seeking salary for the period of earlier dismissal, i.e. 04.11.1996 to 15.10.1997, as well as subsistence allowance. In the meanwhile second round of dismissal order came to be passed on 03.11.1998 which too was set aside by the writ Court on the ground that the enquiry report was based on no evidence and, therefore, the same cannot subsist. The direction for payment of salary etc. was given.

4. Vide order dated 21.08.2000, the appellants decided to hold yet another enquiry. Charge-sheet was served on the private respondent. Based on the enquiry, the disciplinary authority vide order dated 12.09.2001 imposed the penalty of dismissal from service. This order was the third order of dismissal.

5. The third order of dismissal was also challenged before this Court in C.W.J.C. No. 14493 of 2001. The High Court vide order dated 30.04.2003 allowed the writ application and quashed the dismissal order dated 12.09.2001 with a direction to reinstate the private respondent forthwith.

6. In the third round of setting aside of the order of dismissal, the learned single Judge had observed that the procedure adopted was unknown in the eye of law. The impugned order had



been passed on the basis of a vitiated enquiry report, but liberty was given that if they wanted to proceed with the enquiry from the stage subsequent to framing of charge, they must do so and conclude the proceeding within four months.

7. The matter dragged on since 2003 till 2008, when a show cause was issued upon the private respondent as to why he should not be punished. He was again dismissed from service, a fourth time over on 21.04.2008. This order was again challenged. The learned single Judge, after going through the entirety of the issue found a serious omission on the part of the appellants where the enquiry report was not supplied to the private respondent. A specific plea was taken in the second show cause about non supply of the enquiry report by the disciplinary authority, but all that was ignored and then the order of dismissal was passed, which was challenged in the writ application against which the present appeal has been filed.

8. From the narration of facts as well as the history of litigation, it is evident that there is something amiss in the manner in which the enquiry was being carried out without following due process and repeated orders of dismissal came to be passed against the private respondent, which was not supported by law or else the High Court would not have set aside such orders. It was in this background and again finding that the dismissal order has been



passed despite non-service of copy of enquiry report and refusal of the authorities to follow the norms compelled the learned single Judge in the peculiarity of facts and circumstances to allow the writ application and set aside the order of dismissal. The Court also imposed a cost of Rs.10,000/-, which was payable to the private respondent. Now the appeal has been filed.

9. Submission of the counsel for the appellants is that the learned single Judge while setting aside the order of dismissal could have very well remanded the matter back to the authorities from the point from where the procedure was found to be faulty.

10. Such a submission does not merit consideration in the present appeal looking at the fact that the initiation of the departmental proceeding was made in the year 1995 and 22 years have gone past, the four orders of dismissal, which came to be passed by the appellants against the private respondent, were repeatedly found to be illegal and erroneous in the eye of law. How much more of punishment and harassment could an employee be permitted to undergo only to satisfy the whims and fancies of some authorities, who may not be favourably inclined towards the private respondent. We think the narration of facts and the long protracted legal battle for 22 years for which the poor employee must have paid through his nose is a good ground now not to permit the appellants to



proceed in the departmental proceeding even for a day especially when earlier orders of remand did not prevent the appellants to pass legal orders. The impugned order of the learned single Judge does not merit any interference only to satisfy the ego of certain authorities of the organization because there is no infirmity in the order of the learned single Judge.

11. Appeal has no merit. It is dismissed.

12. Cost must be paid to the private respondent within a period of two weeks from today.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	03.05.2017
Transmission Date	N/A

