

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.829 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 16099 of 2008

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1. The State of Bihar
 2. The Director General of Police, Bihar, Patna
 3. The Deputy Inspector General of Police, Central Zone, Patna
 4. The Senior Superintendent of Police, Patna
 5. The Inspector of Police – cum – Conducting Officer, Punpun Block, District Patna
 6. The Inspector of Police / Officer-in-Charge-cum-Conducting Officer, Gandhi Maidan Police Station, District Patna

.... Respondents - Appellants

Versus

Kaushal Kumar Tiwary, S/o Ram Ratan Tiwary, R/o Mohalla – Jagdeo Path, P.S. Patna Airport, District Patna.

.... Writ petitioner - Respondent

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Appearance:

For the Appellant/s : Mr. Khurshid Alam, AAG 12 and
Mr. Fakhruddin Ali Ahmad, AC to AAG 12.
For the Respondent/s : Mr. T.B. Singh, Sr. Advocate,
Mr. Bhanu Pratap Singh and
Mr. J. Upadhyaya, Advocates.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date: 28-07-2017

The State of Bihar is in appeal before us being aggrieved by the order dated 18.03.2013 passed by the learned Single Judge of this Court in CWJC No. 16099 of 2008 by which the learned Single Judge has allowed the Writ Application and quashed the impugned orders dated 06.10.2007, 31.03.2008 and 18.09.2008 passed by the authorities of the State. The learned Single Judge further held that the petitioner shall be deemed to be in continuous service since the date of his dismissal from service and would be entitled to all



consequential benefits, both financial as well as promotional, for which the authorities must take a decision within two months from the date of receipt / production of a copy of the order.

The facts are not in dispute. The petitioner was proceeded against on the allegation that he was caught lashed with illegal arms for which Shastri Nagar P.S. Case No. 65 of 2004 was registered. Admittedly, in the said case, no witness could be produced and the petitioner had been acquitted by the criminal court. Similar was the fate of the disciplinary proceeding in which the State miserably failed to produce any witness to support the allegation. The only charge against the petitioner being that he was an accused in the said Shastri Nagar P.S. Case No. 65 of 2004 in which he stands acquitted by the criminal court, there was no reason for the State to be aggrieved by the order under appeal as the learned Single Judge has taken into consideration the facts and circumstances under which the order has been passed. The relevant part of the order passed by the learned Single Judge may be quoted thus for easy reference.

“14. This is a very serious matter specially when the petitioner was being given the most severe punishment of dismissal from service and passing of such orders without any opportunity to the petitioner to place his case is clearly violation of the rules of natural justice and the principles of equity due to which the order of disciplinary authority including the orders of higher



authorities affirming the said order without these points is clearly illegal, arbitrary and perverse.”

We do not feel happy with this kind of appeal preferred by the State of Bihar. It is a sheer wastage of judicial time and resource of the State as well. The manner in which the present appeal has been preferred carelessly without there being any ground to assail the order of the learned Single Judge, we feel it just and proper to impose costs of Rs. 25,000/- (Twenty five thousand) with a word of caution to the State Government that while filing a Letters Patent Appeal care must be taken to find out the grounds and authenticity which may be legally and / or arguably placed before the learned Appellate Court. The costs, as aforesaid, shall be payable within a period of four weeks to be deposited in the Patna High Court Legal Aid Committee. The State will be free to recover this amount by identifying the people responsible for giving such absurd advice.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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