

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4794 of 2011

=====

1. Raj Kishore Singh S/O Late Rameshwar Singh R/O Village Mahuaria, P.S.-
Sheohar, District- Sheohar

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Home (Special) Department, Government Of Bihar, Patna
3. The Special Secretary, Home (Special) Department, Government Of Bihar,
Patna
4. The Deputy Secretary , Home (Special) Department, Government Of Bihar,
Patna
5. The Inspector General Of Prisons, Bihar, Patna
6. The State Of Jharkhand Through The Secretary, Department Of Home,
Government Of Jharkhand, Ranchi
7. The Inspector General Of Prisons, Jharkhand, Ranchi
8. The Superintendent , Sub-Jail, Ghatsheela, Jharkhand

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Ritesh Kumar, Advocate

For the Respondent/s : Mr. Satyabrata Verma, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 19-08-2017

Challenging the orders passed by the Appellate Authority and the Disciplinary Authority in imposing punishment of stoppage of increment with cumulative effect for a period of seven years, the writ petition in question has been filed. Facts in brief go to show that petitioner at the relevant time was posted as Assistant Jailer in Ghatsheela Sub-jail in the year 1997 when certain charge-sheet was issued to him in the matter of escape of a prisoner, namely, one Chetan Baske from the Sub-jail on 24.11.1997. In the year 1997, the petitioner was posted in the State of Jharkhand. A



departmental enquiry was conducted and based on the report submitted by the Enquiry Officer on 29.11.1999, the punishment in question was imposed against the petitioner. The petitioner challenged the punishment order by filing a writ petition as C.W.J.C. No.2611 of 2000 and in the meanwhile preferred an appeal also against the impugned order of punishment. However, after re-organization of the State, petitioner's services came to be allocated to the State of Bihar and while working in the State of Bihar, it seems, in the writ petition filed in the Jharkhand High Court, the High Court on 7.8.2008 directed the Appellate Authority to decide the appeal, if not already decided.

Be that as it may, writ petitions were filed by the petitioner before the Jharkhand High Court and finally in the year 2008 he preferred a review application before the Appellate Authority and the same was also dismissed vide Annexure 9A on 18th of March, 2009 in view of the fact that after eight years of the cause of action the appeal/review application is not maintainable. Even though various grounds are raised in the writ petition to challenge the imposition of punishment, primarily on account of violation of principles of natural justice and non-grant of opportunity in conducting the departmental enquiry, so also the fact about non-providing the report of the Enquiry Officer in the counter affidavit



filed by the State Government, they have not adverted to consider various issues raised by the petitioner in the matter. Be that as it may, the fact remains that the appeal filed by the petitioner was not decided on merit. Initially, when, immediately after the impugned punishment was imposed in the year 1999 the petitioner preferred the appeal in the year 2000. Vide Annexure 8 on 20th of July, 2000, his appeal was dismissed without passing a speaking order and without considering various grounds raised in the appeal. Thereafter, the matter was pending before the Jharkhand High Court up to 7.8.2008 when the Jharkhand High Court disposed of the matter. According to the petitioner, he had filed the writ petition in the High Court at Patna, but after bifurcation of the State, the writ petition was transferred to the Jharkhand High Court. He was not noticed about the transfer of his case and in his absence, without hearing him, the writ petition was decided by the Jharkhand High Court. Be that as it may, the fact remains that after the writ petition was decided by the Jharkhand High Court in the year 2008 and thereafter the second writ petition on 2nd of April, 2010, the petitioner preferred review application and the same has been dismissed on the ground of delay.

Even if the applicant may have caused delay in filing the review application, but the delay is reasonable as he was



agitating the matter in Jharkhand. That apart, the original appeal filed by the petitioner was dismissed on 20th of July, 2000 vide Annexure A by the Government of Bihar in a manner which is not permissible under law inasmuch as the appeal has been dismissed without passing a speaking order showing total non-application of mind in dealing with the appeal and that being so, it is a fit case where the case be remanded back to the Appellate Authority.

Accordingly the orders passed by the Appellate Authority, Annexures 8 and 9A are quashed.

It is directed that on the petitioner filing a certified copy of the order along with relevant documents and the memo of appeal and additional grounds of memo of appeal within a period of 30 days from today, the Appellate Authority shall consider and decide the appeal of the petitioner within a period of 60 days thereof by passing a speaking order advertng to consider all the grounds as may be raised in the memo of appeal.

With the aforesaid, the application is allowed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26.8.2017
Transmission Date	N/A

