

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1065 of 2016

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Rajiv Ranjan Singh, son of Late Dinbandhu Singh, Resident of Village- Neknam Tola, P.S.- Barhara, Arrah, District- Bhojpur, At present residing at Shastri Nagar, Road No. 4, Near Central Jail P.S.- Rampur, District- Gaya.

.... Appellant/s

Versus

1. The State of Bihar through the Home Commissioner, Bihar, Patna.
2. The Director General of Police Bihar, Patna.
3. The Inspector General of Police (Head Quarter), Bihar, Patna.
4. The Deputy Inspector General of Police (Personnel & Administration) Bihar, Patna.
5. The Inspector General of Police Muzaffarpur, Range, Muzaffarpur,
6. The Deputy Inspector General of Police Champaran Range, Bettiah.
7. The Superintendent of Police, Motihari.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Siya Ram Shahi, Advocate
Mr. Md. Ansur Rahman, Advocate
Mr. Md. Akram Naiyer, Advocate
For the Respondent/s : Mr. Madhav Pd. Yadav, G.P.-23
Mr. Sanjay Kumar, AC to G.P.-23

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-07-2017

Seeking exception to an order dated 02.03.2016 passed by the Writ Court in Civil Writ Jurisdiction Case No.20698 of 2013 upholding an order passed by the Department compulsorily retiring the petitioner treating him to be dead wood under the provisions of Rule 74 of the Bihar Service Code, this appeal has been filed under Clause 10 of the Letters Patent.

Petitioner was a Sub Inspector in the Bihar Police Service. Initially, petitioner was compulsorily retired on 31st March, 2011 when



a Departmental Promotion Committee (DPC) found the service record of the petitioner to be totally bad and recommended for his compulsory retirement. This order was challenged on the ground that the DPC cannot recommend for compulsory retirement and, therefore, on 20th April, 2012 in CWJC No.6034 of 2012, the order of compulsory retirement was set aside and the matter was remanded back to the Department to proceed in accordance to the Bihar Police Manual, particularly Rule 854A which is *pari materia* of the Rule 74 of the Bihar Service Code.

The matter was examined by the competent authority, including the Director General of Police and thereafter by the impugned order, action for compulsory retirement has been passed under the relevant Service Rules treating him to be a dead wood.

Inter alia contending that the compulsory retirement is by way of punishment, it has not been done after proper consideration and placing reliance on the judgments of the Hon'ble Supreme Court in the cases of **Ram Ekbal Sharma v. State of Bihar and another** [AIR 1990 SC 1368]; **Baikuntha Nath Das v. Chief District Medical Officer, Baripada and another** [AIR 1992 SC 1020]; and **Rajasthan State Road Transport Corporation and others v. Babu Lal Jangir** [AIR 2014 SC 142] it is argued that the compulsory retirement is illegal.

Respondents has filed a detailed reply and argued that compulsory retirement is not a punishment. The entire service record of



the petitioner was perused and the competent authority, namely the Director General of Police, has passed the impugned order.

We have considered the rival contentions and we find that vide Annexure-A, the service particulars of the petitioner are indicated and it indicates that during the entire service of the petitioner, there are 33 red marks and that apart on more than 11 occasions, he has been proceeded with and punishment imposed. Taking note of all these factors, the impugned action has been taken and the learned Writ Court after evaluating the entire aspects of the matter, recorded a finding that the petitioner is a dead wood and after evaluating his entire service record due to un-satisfactory service, he is declared a dead wood and the impugned order passed by the learned Writ Court in the facts and circumstances of the case is legal and proper and we see no reason to make any indulgence into the matter.

The judgments relied upon by the learned counsel for the petitioner primarily to the effect that the compulsory retirement by way of punishment cannot be accepted in the facts and circumstances of the present case as the petitioner has not been retired by way of punishment, but he has been proceeded against and compulsorily retired treating him to be a dead wood and, therefore, the judgments relied upon by the learned counsel for the petitioner will have no application in the present case.

The contention of the petitioner that he was compulsorily



retired on the basis of recommendation of the DPC is also not correct for the simple reason that the action taken based on the recommendation of the DPC was quashed in the earlier writ petition and thereafter fresh action was taken by the competent authority after following due process of law.

That being the position, we are not inclined to interfere into the matter. There being no merit, the appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

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CAV DATE	NA
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