

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1305 of 2012

In
Civil Writ Jurisdiction Case No.4612 of 2012

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1. The State of Bihar through the Home Secretary, Home (Special Department), Old Secretariat, Patna
 2. The Inspector General (Jail) Government of Bihar, Old Secretariat, Patna
 3. The Joint Secretary-Cum-Director (Administration) Home (Prison) Department, Old Secretariat, Patna
 4. The Jail Superintendent, District Jail, Purnea (At Present Central Jail, Purnea)
 5. The Accountant General, Bihar, Patna

... .. Appellant/s

Versus

1. Ram Bachan Singh S/O Late Musafir Singh R/O Vill.- Khiri, P.S.- Wizirganj, District- Gaya
2. Deonandan Paswan S/O Late Rajo Das R/O Alaudia Sarai, P.S.- Manpur, District- Nalanda
3. Janki Singh S/O Late Cepoy Singh R/O Village + P.O.- Girahar Varab, P.S.- Nawanagar, District- Buxar
4. Ramakant Prasad Singh S/O Late Sharvdeo Prasad Singh R/O Village- Chakbajo, P.S.- Saraya Factory, District- Muzaffarpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar, A.C. to G.P. 10
For the Respondent/s : Mr. R.N. Mukhopadhaya, Sr. Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-10-2017

Seeking exception to an order dated 16.05.2012 passed by the learned Writ Court in C.W.J.C. No. 4612 of 2012 this appeal has been filed by the State Government under Clause 10 of the Letters Patent.

Facts in brief go to show that the respondents were working in Purnea Jail during the relevant period i.e. October, 2009 as Head Warden and Warden respectively when a prisoner escaped from the jail and, therefore, a show-cause notice was issued to the respondent employees and the Superintendent of the Shahid Zubba Sahni Central Jail was directed to conduct an inquiry. He conducted an inquiry and submitted a report on 16.10.2009. Based on the report, a charge-sheet was issued to the employees on 05.04.2010. The Inquiry Officer submitted his report on 20th of August, 2010. A second show-cause notice was issued to the employees on 08.12.2010, 21.04.2011 and 09.02.2011. The Inspector General of Prison passed the impugned order dismissing Respondent No. 1 Ram Bachan Singh, Respondent No. 2 Deonandan Paswan and Respondent No. 3 Janki Singh from service and Respondent No. 4 Ramakant Prasad Singh was inflicted punishment of recovery of



10 per cent from his pension for a period of 10 years. Challenging the aforesaid punishment, the writ petition in question was filed and the Writ Court found that merely based on the report submitted on 16.10.2009 without examining any prosecution witness, behind the back of the petitioners, the impugned action was taken and, therefore, interfered with the punishment order, quashed the same and allowed the writ petition.

It was only contended before us that even if the learned Writ Court was of the view that the petition is to be allowed on account of procedural irregularity in conduct of the departmental inquiry, the learned Writ Court should have remanded the matter back to the departmental authorities for conducting inquiry afresh in accordance with law and this having not been done, indulgence into the matter is sought for to that limited extent.

Having heard learned counsel for the parties, we are of the considered view that as the inquiry in question has been quashed on technical ground, liberty shall be available to the department to proceed in the matter in accordance with law but before doing so, the order of the learned Writ Court has to be implemented, punishment order deemed to have been



quashed and fresh action taken in accordance with law after granting to the employees the benefit of quashing of the punishment order.

With the aforesaid liberty to the department, the Letters Patent Appeal stands allowed in part and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

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