

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.518 of 2018

In
Civil Writ Jurisdiction Case No.13112 of 2012

-
1. The State of Bihar through the Additional Secretary, Department of Registration, Govt. of Bihar, Patna.
 2. The Secretary, Department of Registration, Govt. of Bihar, Patna.
 3. The Inspector General (Registration), Department of Registration, Govt. of Bihar, Patna.
 4. The Divisional Commissioner, Magadh Division, Gaya.
 5. The District Magistrate, Gaya.

... .. Respondents/Appellant/s

Versus

Arbind Kumar Khan, son of Sri Fani Bhushan Khan, Resident of Village & P.S. Bangaon, District Saharsa, presently posted as Joint Sub-Registrar, Muzaffarpur.

... .. Writ Petitioner/Respondent/s

Appearance :

For the Appellant/s	:	Mr. Anil Kumar Sinha, GA-1 Ms. Aditi Hausania, AC to GA-1
For the Respondent/s	:	Mr. Rajni Kant Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 08-01-2019

Re.: Interlocutory Application No.2888 of 2018

Delay of 108 days is reported.

We have heard learned counsel for the State of Bihar who submits that the delay be condoned and the appeal be heard on merits.

We have perused the affidavit filed in support of the delay condonation application and having heard Shri Rajni Kant Jha, learned counsel for the respondent-petitioner, we are satisfied that sufficient ground has been made out for condoning the



delay. The application is allowed and the appeal shall be treated within time.

Re.: Letters Patent Appeal No. 518 of 2018

The appeal assails the impugned judgment dated 22nd November, 2017, whereby the learned Single Judge has quashed the punishment order against the respondent-petitioner as well as the order in appeal leaving it open to the appellants-respondents to proceed, if so advised, in accordance with law. The grounds on which the punishment order and the appellate order came to be quashed are that the charges that were sought to be proved were not supported by any adequate evidence and secondly, without serving a copy of the report of the enquiry officer, the order of punishment was passed.

Learned counsel for the appellants submits that the learned Single Judge has overlooked the fact that no prejudice has been caused to the respondent-petitioner and as a matter of fact, he had obtained the copy of the enquiry report under the Right to Information Act. It is also submitted that the proceedings did not suffer from any illegality much less irregularity inasmuch as full opportunity was given to the respondent-petitioner to defend himself. It is thereafter, that the enquiry officer found the charges to have been proved and consequently, the disciplinary



authority was justified in passing the order of punishment.

We have considered the submissions raised.

The question of the merits of the charges having been proved or otherwise is a separate issue altogether inasmuch as this much is evident, and has not been disputed, that the impugned order of punishment was passed without furnishing a copy of the enquiry report to the respondent-petitioner. In this regard, we entirely agree with the conclusions drawn by the learned Single Judge that the same would violate the principles as laid down by the Apex Court in the case of **Managing Director, ECIL, Hyderabad Vs. B. Karunakar** reported in **(1993) 4 SCC 727**.

Learned counsel for the respondent-petitioner submits that as a matter of fact, prejudice had been caused to the respondent-petitioner. This is refuted by the learned counsel for the appellants contending that as a matter of fact, no prejudice was shown to have been caused.

In our considered opinion, if the impugned order of punishment is founded on the conclusions drawn by the enquiry officer in the report and the copy of the report has not been furnished to the delinquent employee, then that by itself is serious prejudice and consequently, the proceedings stand



vitiated. The learned Single Judge has already left it open to the appellants to proceed in accordance with law and, therefore, it cannot be said that the appellants cannot avail of any further opportunity in this regard.

Consequently, we are not inclined to interfere with the impugned judgment without prejudice to the rights of the appellant-State to proceed in accordance with law.

Consigned to records.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.01.2019
Transmission Date	

