

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.383 of 2018
In
Civil Writ Jurisdiction Case No.2949 of 2011

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1. The State of Bihar through the Principal Secretary, Department of Water Resources, Government of Bihar, Patna.
 2. The Principal Secretary, Water Resource Department, Government of Bihar, Patna.
 3. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Patna.
 4. The Deputy Secretary, Water Resources Department Government of Bihar, Patna.
 5. The Executive Engineer, Tube Well Division, Begusarai.
 6. The Executive Engineer, Western Koshi, Canal Division, Benipatti, Rahika, District-Madhubani.

... .. Appellant/s

Versus

Om Prakash, Son of Late Virja Singh, Resident of Village-Hathiyakandh, P.S.-Shahpur, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Anjani Kumar, AAG-4
Mr. Amit Kumar Jha, A.C. to AAG-4
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date : 07-01-2019

Heard Shri Anjani Kumar, learned Additional
Advocate General for the State of Bihar.

2. This appeal questions the conclusion drawn by the learned Single Judge, whereby the punishment order passed against the respondent-petitioner has been set aside on the ground that in spite of having knowledge of the acts of omission as alleged against the respondent-petitioner the departmental authority slept over the matter for an inordinate long period of time.

3. We have gone through the charge-sheet as



also the Inquiry Report. The Inquiry Officer had not held the respondent-petitioner to be responsible for the allegations but disagreeing with the same, the Disciplinary Authority issued a show-cause to the respondent-petitioner on the ground that since the respondent-petitioner had failed to hand over charge in spite of repeated reminders, therefore, the inference is that the respondent-petitioner was responsible for the loss of the items, the inventory whereof was prepared on 23rd of February, 2007. Accordingly, the punishment was meted out to him on conclusion of the valuation of the alleged loss of items, the inventory whereof was prepared in the year 2007.

4. Needless to mention that the respondent-petitioner had been transferred on 26.12.1996 and since he did not hand over charge he was relieved forcefully on 26th April, 1997. There is no material on record to demonstrate that any such alleged inventory or loss of items was ever reported in relation to the items which has been made the basis of the inventory dated 23.02.2007 and also the charges against the respondent-petitioner. It is evident that the inventory was prepared 10 years after the respondent-petitioner was relieved from the said charge. He had also superannuated in between on 31st July, 2003.



5. The fact that he had not handed over charge may be correct but the fact as to whether he was responsible for any such misappropriation of items was to be gathered only from the facts that could have been made the basis of the charges had any inventory been prepared or the matter had been reported immediately upon the relieving of the respondent-petitioner in the year 1997. This lapse on the part of the appellants, therefore, clearly indicates that they took 10 years to even collect the said evidence in the shape of an inventory and which was ultimately made the basis of proceeding against the respondent-petitioner. It is for this reason that the Inquiry Officer concluded that the respondent-petitioner in these circumstances when no verification of the items was carried out could be proceeded against. The disagreement of the Disciplinary Authority, therefore, overlooks this entire factual backdrop and it only infers that since the respondent-petitioner had not handed over charge, therefore, he was responsible for the loss of the items.

6. In our considered opinion, there cannot be any inference of facts which have to be proved during inquiry on the basis of cogent material. The inventory which was prepared 10 years after the relieving of the respondent-petitioner does not



inspire confidence inasmuch as the appellants did not take any action immediately after the relieving of the respondent-petitioner in the year 1997 and they slept over the matter for almost 10 years and then took action after a prolonged period of time.

7. It is in this background that the learned Single Judge rightly relied upon the judgment of the Apex Court in the case of **State of Madhya Pradesh Vs. Bani Singh and Another**, reported in **1990 Supp SCC 738**. We, therefore, find no reason to disagree with the view so taken. The appeal lacks merit and is, accordingly, dismissed.

Re: I.A. No. 2260 of 2018

I.A. No. 2260 of 2018 stands disposed of in terms of the judgment delivered today.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

P.K.P./-Jagdish

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