

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6743 of 2016

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Sandeep Prakash son of Late Krishan Bihari Saran, Resident of B-26, Police Colony, Anisabad, P.S. Gardanibagh, Town and District- Patna.

... .. Petitioner/s

Versus

1. The High Court Of Judicature At Patna
2. The District and Sessions Judge, Munger.
3. The District and Sessions Judge, Lakhisarai.
4. The Additional District and Sessions Judge, Lakhisarai.
5. The Inquiry Officer, Lakhisarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajive Kumar Verma, Sr. Adv. Mr. Rabi Bhushan, Adv. Ms. Rakhi Kumari, Adv.
For the Respondent/s	:	Mr. Piyush Lall, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 18-05-2023 Heard the learned counsel for the petitioner and

Mr. Piyush Lall, the learned Advocate for the

respondent / Patna High Court.

This case has been up-listed today under the

heading "To Be Mentioned" at the instance of the

respondent / Patna High Court.

The reasons for up-listing the matter *suo motu*

will become explicable in this order.

This writ petition has been filed against the



decision of the Standing Committee of the Patna High Court, communicated to the petitioner *vide* communication by the Registrar General dated 16th October 2015, intimating the petitioner that his appeal against the order passed by the District and Sessions Judge, Lakhisarai, dismissing him from service, has been rejected.

The writ petition is structured solely on the ground that the appellate order does not indicate any reason and, therefore, is not fit to be sustained in the eyes of law.

Now, comes the reason for up-listing the matter.

Against two of the employees of Lakhisarai Judgeship, departmental proceedings were initiated with the allegation that because of their negligence, the records of a particular case in which the order had to be delivered by the S.D.J.M Lakhisarai, was not produced before the Court.



A complaint was made by one Ajay Kumar Yadav vide Complaint Case No. 468(C) of 2008 which was fixed for orders before the Court of S.D.J.M, Lakhisarai for 06-10-2010. On this date, the records were not presented before the S.D.J.M. The complainant thereafter lodged the complaint before the District Judge, Munger alleging that the Bench clerks namely, the petitioner and one Rakesh Kumar were responsible for the missing of records as they were trying to help the accused viz. Mamta Verma.

In any view of the matter, the records were reconstructed but a preliminary enquiry was directed against the petitioner and aforesaid Rakesh Kumar. In the aforementioned enquiry, it was found that both the petitioner and Rakesh Kumar were negligent. Thereafter, departmental proceedings were initiated against the petitioner and Rakesh Kumar in which the Enquiry Officer found that the petitioner and Rakesh Kumar were guilty and the charges against them were



proved.

Hence, the District and Sessions Judge, the Disciplinary Authority, inflicted the punishment of dismissal against both the wrong doers; one being the petitioner.

The petitioner as well as aforesaid Rakesh Kumar preferred separate appeals before the High Court. The appeals of both the petitioner and Rakesh Kumar were rejected by the Standing Committee of the High Court and they were communicated the decision by the Registrar General.

Rakesh Kumar challenged the aforementioned decision of the Standing Committee of the High Court *vide* C.W.J.C No. 19320 of 2015, which was allowed *vide* order dated 08-10-2022. The Bench hearing the matter, taking into account the judgment of Apex Court in **M/S Kranti Asso. Pvt. Ltd. & Anr vs Masood Ahmed Khan & Ors; 2010 (9) SCC 496**, as also Rule 20 of the Bihar Civil Courts Staff Rules, 2009 found the



decision of the Standing Committee to be unsustainable in the eyes of law. The decision in case of Rakesh Kumar, referred to above, was set aside and the Appellate Authority/ the Standing Committee of the High Court, was requested to decide the appeal afresh giving reasons for the conclusions to be arrived at.

Since the matter had come up before the Standing Committee, the same was re-appraised and the punishment order, this Court has been informed, was set aside. It has further been informed that the writ petition preferred by the petitioner is pending consideration.

For this reason alone, this case has been up-listed for further consideration.

Since the case of the petitioner stands on similar footing as that of Rakesh Kumar in which there has been a decision of a Co-ordinate Bench of this Court, remitting the matter to the Appellate Authority, namely, the Standing Committee of the High Court so in all fitness of things, this Court deems it appropriate



to remit the matter to the Appellate Authority/Standing Committee of the High Court after setting aside its earlier order of affirmation of the order of punishment by the Disciplinary Authority, with a request to the Appellate Authority to pass a fresh order in accordance with law.

The writ petition stands disposed of accordingly.

(Ashutosh Kumar, J)

Mayank/Sunilkumar

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