

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1374 of 2023

In
Letters Patent Appeal No.267 of 2022

Dr. Amjad Ali, Son of Md. Iliyas, Resident of Village- Aghari, P.O.- Tehwara, Via- Singhwara, P.S.- Katra, District- Darbhanga, Presently residing at Flat No. 303, Kanti Shree 3rd Block, SBI Sandalpur Road, P.O.- Mahendru, Patna, PIN- 800006.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. Professor Pradeep Kumar Jain, Director, National Institute of Technology, Patna cum Chairperson (Acting), Board of Governor, National Institute of Technology, Patna.
3. Dr. Asit Narayan, Registrar, National Institute of Technology, Patna.

... .. Opposite Party/s

with

CIVIL REVIEW No. 253 of 2023

In
Letters Patent Appeal No.267 of 2022

1. The National Institute of Technology Patna through its Registrar.
2. The Director, National Institute of Technology, Patna.
3. The Registrar, National Institute of Technology, Patna.
4. The Board of Governor (BOG) through the Chairman, National Institute of Technology, Patna.

... .. Petitioner/s

Versus

1. Dr. Amjad Ali, son of Md. Iliyas, Resident of village - Aghari, P.O. - Tehwara, Via - Singhwara, P.S.- Katra, District - Darbhanga, Presently residing at Flat No. 210, SBI Campus Building, Mahendru, P.S. - Pirbahore, Near Gandhi Chaw, District and Town- Patna.
2. Dr. Rajiv Sinha (Enquiry Officer), Professor, Earth Science Department, IIT Kanpur (U.P).

... .. Opposite Party/s

Appearance :

(In Miscellaneous Jurisdiction Case No. 1374 of 2023)

For the Petitioner/s : Mr. Shekhar Singh, Advocate

For the State : Mr. Sarvesh Kr. Singh, AAG-13
Mr. Ravi Kumar, AC to AAG-13

For the Opposite Party/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Sanjay Kumar Giri, Advocate

(In CIVIL REVIEW No. 253 of 2023)

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Giri, Advocate
Mr. Shekhar Singh, Advocate



=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

4 26-04-2024

Re : Civil Review No. 253 of 2023

The NIT Patna has preferred this civil review against the judgment dated 04.02.2023, passed in LPA No. 267 of 2022, arising out of CWJC No. 23415 of 2019 on the ground that the two paragraphs of the judgment, viz., paragraphs 18 and 21 do not collocate and, therefore, in ultimate analysis, the NIT is not able to implement the order passed by this Court in the appeal.

2. Paragraphs 18 and 21 of the judgment impugned are being extracted herein for the sake of completeness :-

"18. This Court also cannot lose sight of the fact that the respondent no.1-writ petitioner has categorically stated in his explanation as to from whom and how he got the tickets, in question, and for that he has already paid the charges through the Net-banking. His averment and the fact of his joining and attending the International Conference has never been doubted for which



he submitted his bill for travelling allowance. However, the appellant NIT, Patna has failed to consider that he might have been cheated at the hands of the travelling agent and in any view of the matter the order of punishment of removal is certainly disproportionate to the charges said to be proved, which shocks the conscience of this Court and on this score also the order of removal was not justified and proper. In the considered opinion of this Court, in the facts and circumstances of the present case, even if the charges are presumed to have been fully proved, at best, only inflicting of minor punishment can be justified and held to be commensurate/proportionate to the charges/guilt proved.

21. Accordingly, the present Letters Patent Appeal stands disposed of without interfering in the order passed by the learned Single Judge by which the order of removal of the writ petitioner from service has been quashed and set aside and all consequential benefits have been allowed. However, this Court would modify the order of the learned Single Judge to the extent that liberty is given to the disciplinary authority to proceed with the departmental enquiry from the stage of appointment of independent and impartial enquiry officer and proceed thereafter in accordance with law and the observations made in this order, especially at paragraph no.18."

3. A bare reading of paragraph 18 would indicate that the Bench was not in agreement with the



punishment of removal imposed upon the employee. At best, even if the allegations were found to be true, it was a case for a minor punishment.

4. In paragraph 21, which is the summation of the judgment, however, the Bench has explained that the order of the learned Single Judge has been modified to the extent that the NIT would have the liberty to proceed with the departmental inquiry from the stage of the appointment of an independent and impartial Inquiry Officer and proceed thereafter in accordance with law.

5. The difficulty has arisen in a synchronous reading of the two paragraphs because of the Bench having said that in case such a departmental inquiry from the stage of appointment of an independent and impartial Inquiry Officer is initiated, it should end keeping the observation made by the Bench in paragraph 18, wherein the punishment of removal was not approved of.

6. On hearing the parties, we find that



paragraph 21 of the judgment is required to be deleted and be substituted with a direction that a proceeding be initiated afresh for minor punishment and be concluded without any delay, in the light of the observation made in paragraph 18 of the judgment.

7. The civil review application stands disposed off accordingly.

Re : MJC No. 1374 of 2023

8. In view of the modification in the order passed by the Division Bench in Civil Review No. 253 of 2023, the contempt proceeding in MJC No. 1374 of 2023 is dropped.

9. However, the petitioner would be at liberty to come before this Court, if the NIT does not do the needful within a reasonable time.

(Ashutosh Kumar, J)

(Harish Kumar, J)

Rajesh/Manoj

U			
---	--	--	--

