

Arjun Sinha Vs. State of Bihar and ors.

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Court : Patna

Decided On : Sep-07-2001

Judge : Narayan Roy, J.

Appeal No. : C.W.J.C. 9396 of 2000

Appellant : Arjun Sinha

Respondent : State of Bihar and ors.

Disposition : Application Allowed

Prior history : Narayan Roy, J. 1. Heard Mr. Ganesh Pd. Singh, learned senior Counsel for the 2. The question involved in this writ application is as to whether on the point of difference by the disciplinary authority with the inquiry report, an opportunity of being heard is required to be given to the delinquent. 3. It is submitted by learned Counsel appearing on behalf of the petitioner that the petitioner was proceeded against in a departmental proceeding and during the pendency of the departmental proceed

Judgement :

Narayan Roy, J.

1. Heard Mr. Ganesh Pd. Singh, learned senior Counsel for the

2. The question involved in this writ application is as to whether on the point of difference by the disciplinary authority with the inquiry report, an opportunity of being heard is required to be given to the delinquent.

3. It is submitted by learned Counsel appearing on behalf of the petitioner that the petitioner was proceeded against in a departmental proceeding and during the pendency of the departmental proceeding, he was put under suspension. In the departmental proceeding the inquiry report as contained in Annexure 7, was submitted to the disciplinary authority saying that the charges levelled against the petitioner are not proved and, therefore, he recommended for his exoneration from the departmental proceeding. On receipt of the enquiry report, as contained in Annexure-7, the disciplinary authority vide order, as contained in Annexure 9, differed with the same and imposed certain punishments upon the petitioner. It is further submitted by learned Counsel appearing on behalf of the petitioner that before passing the order, as contained in Annexure 9, no opportunity, whatsoever, was given to the disciplinary authority has differed with the view of the enquiry officer.

4. The question as to whether an opportunity of being heard is required to be given to the delinquent in such a situation has already been set at rest by the apex Court in the case of Punjab National Bank and Ors. v. Kunj Behari Misra : (1998)11LLJ809SC . In the case of Punjab National Bank and Ors. (supra), it has been held that even in a case when the disciplinary authority has differed with the inquiry report, he must afford an opportunity of being heard to the delinquent. Again in the case of State Bank of India and Ors. v. Arvind Kumar Shukla JT 2001 (1) SC 496 the same view has been reiterated saying that when the disciplinary authority disagrees with the finding of the inquiry officer, it is required to record its tentative reasons for its disagreement and is further required to give an opportunity of being heard to the delinquent.

5. In the case in hand, it appears that disciplinary authority has neither recorded any tentative reasons for his difference with the inquiry report nor any opportunity of being heard has been given to the delinquent petitioner. In view of the legal ratio, noticed above, in the facts and circumstances of the case, order impugned,

as contained in Annexure 9, is not sustainable in law.

6. In the result, this application is allowed, order impugned, as contained in Annexure 9, is quashed and the matter is remitted back to the disciplinary authority to proceed in the matter in accordance with law, as indicated above. No order as to costs.

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