

Hriday Narayan Singh Vs. Bharat Cocking Coal Ltd. and anr.

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Court : Patna

Decided On : Dec-13-1995

Judge : P.K. Deb, J.

Appeal No. : C.W.J.C. No. 1997 of 1993 (R)

Appellant : Hriday Narayan Singh

Respondent : Bharat Cocking Coal Ltd. and anr.

Prior history : P.K. Deb, J. 1. The short point involved in this writ application is whether the dismissal order passed against the petitioner vide Annexure-4 dated 3.7.1993 is sustainable in law when the petitioner has been denied of the report of the Inquiry Officer in the disciplinary proceeding. 2. The petitioner was serving as Superintendent in the Estate department under the B.C.C.L. Regarding appointment of the displaced persons from whom the lands have been acquired, the petitioner was found to have e

Judgement :

P.K. Deb, J.

1. The short point involved in this writ application is whether the dismissal order passed against the petitioner vide Annexure-4 dated 3.7.1993 is sustainable in law when the petitioner has been denied of the report of the Inquiry Officer in the disciplinary proceeding.

2. The petitioner was serving as Superintendent in the Estate department under the B.C.C.L. Regarding appointment of the displaced persons from whom the lands have been acquired, the petitioner was found to have embezzled the list of the appointees and as such the Department decided to take action against the petitioner and he was put under suspension and a disciplinary proceeding started. Charge sheet was submitted on 5.4.1990 and the petitioner submitted his reply to show cause on 10.4.1990. After the enquiry was concluded, report was submitted by the Inquiring Officer allegedly finding guilt of the petitioner and charges being proved against him on 27.4.1991. On the basis of that report, after two years by Annexure-4 the petitioner has been terminated from the services by the disciplinary authority respondents agreeing with the Inquiry Officer's report. The petitioner after the enquiry was concluded wanted to have a report of the Inquiring Officer, but the same was denied quoting the Rules by the B.C.C.L. vide Annexure-5. The petitioner has now come up with his grievance that his right has been denied when he was deprived of getting the enquiry report and go through it and to show his innocence before the disciplinary authority before the order of punishment could be passed against him.

3. There was contradictory judgments whether a delinquent officer is entitled for the copy of the enquiry report or not. In Md. Ramjan Khan's case the Apex Court decided as reported in AIR 1991 SC 471 that the enquiry report must be given to the delinquent officer before punishment could be inflicted on him. That judgment was delivered on 20.11.1990. Afterwards also some judgments came from the Apex Court in nugatory then it was referred to a Larger Bench as to from which date this principle of supplying of report of the Inquiry Officer be made applicable. In Managing Director, ECIL Hyderabad v. B. Karunakaran : (1994)ILLJ162SC , it was decided by a Larger Bench that the principles enunciated in Ramjan Khan's case (supra) would be prospective in nature and would be applicable on the cases which would come after 20.11.1990. The petitioner's dismissal was passed vide Annexure-4 on 3.7 1993 and as such the petitioner will get benefit of the judgment of Ramjan Khan's case and also the concurring judgment of the Supreme Court as reported in : (1994)ILLJ162SC .

4. In view of the decisions arrived at by the Apex Court and the principle enunciated, the writ petition of the petitioner is entitled to be allowed. Accordingly, the writ petition is allowed. Annexure-4 by which the dismissal order is passed against the petitioner is hereby set aside and the matter is sent back to the disciplinary authority (respondents) with a direction that they should proceed with the matter from the stage of submission of enquiry report by the disciplinary authority. The petitioner should be supplied with a copy of the enquiry report and then proceed, according to law, as enunciated by the Supreme Court.

5. It should be made clear that the respondent-authority shall be at liberty to come up with fresh order of suspension, if they desire so till the disposal of the whole matter. It is further directed that the whole process of the disciplinary proceeding should be concluded within three months next from the date of production/communication of a copy of this Order.

This Order is passed as because this writ petition after admission awaited as the matter was in consideration before the Supreme Court regarding the prospectiveness of the judgment of Ramjan Khan's case in 1991 in the Supreme Court.

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