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Court : Patna

Decided On : Nov-05-2004

Judge : Narayan Roy, J.

Acts : Service Law

Appeal No. : CWJC No. 6637 of 1999

Appellant : Asha Devi

Respondent : State of Bihar and ors.

Advocate for Def. : JC to GP-7

Advocate for Pet/Ap. : Sanjay Kumar, Adv.

Disposition : Application dismissed

Judgement :

Narayan Roy, J.

1. Heard counsel for the parties.

2. This application is directed against the order of dismissal, as contained in Annexure-8, and the order, as contained in Annexure-10, whereby and whereunder appeal filed by the delinquent against the order of dismissal has been rejected.

3. It appears that for the incident dated 8.7.1997, where the husband of the petitioner, namely, Binod Kumar Singh, had entered into the house of one Ramashraya Yadav in the night hours in a drunken position and had caught hold of hands of wife of Ramashraya Yadav, a departmental proceeding was initiated against him. In Departmental Proceeding No. 12 of 1997 the inquiry proceeded, where Ramashraya Yadav was examined, but the husband of the petitioner, however, refused to cross-examine him. The inquiry officer also recorded evidence of other witnesses in support of the allegation against the husband of the petitioner. Inquiry report was submitted holding that charges have been found to be proved against the delinquent. Pursuant to which the order of dismissal of the husband of the petitioner from services-was passed vide order, as contained in Annexure-8, which, ultimately, was affirmed in appeal vide order, as contained in Annexure-10.

4. Learaed counsel for the petitioner submitted that Krishna Paswan, a village chowkidar, who is alleged to have reported the matter before the police about the conduct of the husband of the petitioner, was not examined nor the connected witnesses were examined to prove the charges against the delinquent, and therefore, the entire proceeding vitiated and on that score, the order of dismissal would not be sustainable. . *

5. Learned counsel for the State, on the contrary, submitted that Ramashraya Yadav, the husband of the victim lady, has been examined and his statement was recorded by the inquiry officer and, ultimately, the matter was reported to the disciplinary authority.

6. It appears from the material on record that Ramashraya Yadav is the husband of the victim lady, and he appears to be present in his house, where the occurrence took place in the dead of night.

7. It is true that Krishna Paswan accompanied Ramashraya Yadav, the husband of the petitioner, who reported the matter before the police- about the conduct of the husband of the petitioner.

8. From the materials on record, it appears that after recording the statement of Ramashraya Yadav, the delinquent was given opportunity to cross-examine him, but in writing he refused to cross-examine him and this fact is apparent from Annexure-C to the counter-affidavit filed on behalf of the respondents. It further appears that at the first instance, Ramashraya Yadav had reported the matter in writing as far back as on 8.7.1997 and to prove the written report of Ramashraya Yadav he was examined by the inquiry officer on 27.6.1998, but the delinquent refused to cross-examine him.

8. It is contended by learned counsel for the State that the petitioner even after this incident again indulged in some other acts, inasmuch as that he tried to tease the family members of the Block Development Officer.

9. From the materials on record, I am satisfied that the act of the petitioner amounted to misconduct and charges have fully been proved by the husband of the victim and merely because the chowkidar, who had accompanied the husband of the victim to report, has not been examined, the evidence of Ramashraya Yadav, cannot be brushed aside.

10. Considering the facts and circumstances of the case, therefore, I do not find any reason to interfere in the matter.

11. In the result, this application is dismissed.

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