

The State of Bihar and ors. Vs. Shyam Narayan Singh

The State of Bihar and ors. Vs. Shyam Narayan Singh

SooperKanoon Citation : sooperkanoon.com/132029

Court : Patna

Decided On : Aug-29-2003

Judge : Ravi S. Dhavan, C.J. and P.N. Yadav, J.

Acts : Service Law

Appeal No. : L.P.A. No. 633 of 1997

Appellant : The State of Bihar and ors.

Respondent : Shyam Narayan Singh

Advocate for Def. : Sanjeev Kumar, Adv.

Advocate for Pet/Ap. : Ashok Kumar Singh, Rajendra Prasad and Nirmala Kumari, Advs.

Disposition : Appeal dismissed

Judgement :

Ravi S. Dhavan, C.J. and P.N. Yadav, J.

1. The only issue in the present Letters Patent Appeal on behalf of the State Government is whether the enquiry report upon acceptance by the disciplinary authority could become a matter of re-examination by higher authority.

2. The other aspect has also to be kept in mind. If the disciplinary authority does not accept the enquiry report for instance to exonerate a delinquent facing enquiry, then reasons have to be recorded by the disciplinary authority. In the present case there was an exoneration by the Enquiry Officer. This report was accepted.

3. The only argument made on the Letters Patent Appeal by the learned State counsel S.C. 3 is to the effect that the result of the enquiry was not up to the mark and thus it was seen by the superiors and order was passed by the Government, dated 5th October, 1996 (Annexure-6 to the writ petition) that there ought to be a re-enquiry and this should be conducted by an officer senior to the Enquiry Officer.

4. In the counter-affidavit paragraph-13 it is accepted that the charges were not proved against the respondent. The counter-affidavit does not give the version whether the report of the Enquiry Officer was placed before the disciplinary authority. Straightway it is mentioned that the matter was placed before the Government and it did not agree with the enquiry report. In paragraph-13(2) of the counter-affidavit it is submitted that the tenor of the enquiry was not correct as the concerning file was not submitted before the Conducting Officer. The reference to the latter apparently is for the Enquiry Officer.

5. First after an enquiry has been conducted with a report whatever it is worth it is the normal course of the process of an enquiry that the report must be placed before the disciplinary authority. The disciplinary authority may accept the report and yet if he disagrees, it is settled law that he will do so with recorded reasons. In the present case the disciplinary authority was short circuited. This is not appropriate.

6. The balance which remains with the case is that the Government was dissatisfied with the Presenting Officer who was conducting enquiry, in that case action should have been taken against the Presenting Officer and not the respondent.

7. The Court cannot certify that the order on the writ petition is incorrect. Appeal dismissed.