

Onkar Saran Singh Vs. Bihar State Electricity Board and ors.

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Court : Jharkhand

Decided On : Jun-01-2001

Reported in : [2002(92)FLR283]

Judge : S.N. Mishra, J.

Acts : Service Law

Appeal No. : CWJC No. 3019 of 1999 (R)

Appellant : Onkar Saran Singh

Respondent : Bihar State Electricity Board and ors.

Advocate for Def. : Indrani Sen Choudhary, Adv.

Advocate for Pet/Ap. : T.K. Das, Adv.

Disposition : Application disposed of

Judgement :

ORDER

S.N. Mishra, J.

1. Heard learned counsel for the petitioner as also learned counsel appearing on behalf of the respondent Board. In this writ application, the petitioner has prayed for quashing of the order dated 20.11.1998, whereby, he has been dismissed from the

service by the respondent Bihar State Electricity Board and also for quashing of the order dated 15.6.1999, whereby, the respondent-Chairman. Bihar State Electricity Board, has dismissed the appeal, filed by the petitioner and thereby, confirmed the order of dismissal, passed by the respondent authority. Admittedly, the petitioner was served with a charge-sheet for negligence of his duties and misappropriation of the Board's amount. In the departmental proceeding, both oral as well as documentary evidence were adduced and the respondent enquiry officer by a reasoned order found the petitioner not guilty and, accordingly, submitted a report to the disciplinary authority. The disciplinary authority after issuing show cause notice, passed the order of dismissal, ignoring the findings recorded by the enquiry officer. Being aggrieved by the order of dismissal, the petitioner challenged the same by filing a writ application, which was registered as C.W.J.C. No. 2084 of 1996 (R). The order of dismissal was set aside by order dated 14.4.1998, on the ground that no reason has been assigned as to why the disciplinary authority differed from the findings, recorded by the enquiry officer and remitted the case back for passing a fresh order, in accordance with law. Pursuant to the remand order, the impugned order has been passed. Again the respondent disciplinary authority has passed the order of dismissal. From mere perusal of the order, it appears that no reason has been assigned as to why the enquiry report is not accepted and again the order of dismissal was passed, without assigning any reason. The appellate authority has also not considered the import of the remand order and held the petitioner guilty and, accordingly, dismissed the appeal and thereby, confirmed the order of the respondent disciplinary authority, after some modification in the order impugned. It is well established principle of law by now that the disciplinary authority may not accept the report of the enquiry officer but in that event, the reason has to be assigned as to why the report is not being accepted. In the instant case, from mere perusal of the order under challenge it appears that no reason has been assigned as to why the report is not acceptable to the disciplinary authority, in spite of the specific direction, issued earlier by this Court, while disposing of the aforesaid writ application. In this case, a supplementary affidavit has been filed on behalf of, the petitioner, wherein, inter alia, it is stated that along with the petitioner, two other Account Officers were also proceeded against and out of the aforesaid two Accounts Officers, one is already

dead and the other was not found guilty by the enquiry officer. However, the disciplinary authority passed the order of dismissal, which was challenged before this Court. Ultimately, the order of dismissal was quashed and pursuant thereto, the said Accounts Officer was reinstated on the post. Be that as it may, in the case, the orders passed by the respondent disciplinary authority as well as the appellate authority can not stand in the eye of law for the reasons, stated above. Accordingly, the order dated 20.11.1998 as well as 15.6.1999, contained in Annexure-1 and I/A to this writ application, are hereby quashed and the matter is remitted back to the respondent authority to pass a fresh order, in accordance with law, and in the light of the observations, made hereinabove. This disposes of this writ application. Since the case is an old one, the respondent authority will take a final decision and pass a fresh order within six weeks from the date of receipt/production of a copy of this order.

2. Application disposed of.

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