

Liladhar Shahu Vs. the State of Bihar and ors

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Court : Patna

Decided On : May-11-2012

Appellant : Liladhar Shahu

Respondent : The State of Bihar and ors

Judgement :

IN THE HIGH COURT OF JUDICATURE AT PATNA Miscellaneous Jurisdiction Case No.3788 of 2011 Liladhar Shahu Versus The State Of Bihar & Ors ----- 4. 11.01.2012 Heard learned counsel for the petitioner and the opposite parties. The Chief Engineer and the Executive Engineer are also present in person. The petitioner was absorbed in the regular establishment on 30.11.2006 and then reverted to daily wage status on 8.11.2007. The Court held that the order for reversion was cryptic and non-speaking. Reasons were the control on arbitrariness. These principles of administrative law were not new but decades old. If the respondents insist on passing orders contrary to well settled law, the Court has little option but to set aside the order. The order of reversion dated 8.11.2007 was set aside. Counsel for the petitioner submits that reinstatement in the absorbed post has not followed till date making the action contemptuous. Counsel for the State submits that there was no direction for reinstatement. The order had been set aside on technicality. On consideration of the rival submissions the Court is not persuaded to proceed further on that 2 aspect and the issue is left open to be agitated by the petitioner in an appropriate proceeding. Fresh orders were then passed by the Executive Engineer on 17.11.2011. The earlier order in the present proceeding notices that hearing was

granted by the Chief Engineer and the final order had been passed by the Executive Engineer. The Court required the opposite parties to explain their contumacious conduct in view of the settled law again that even this was impermissible. A show cause has been filed today that the Chief Engineer has now issued a fresh notice to the petitioner on 9.1.2012 for a hearing on 24.1.2012 after annulling the order of the Executive Engineer. The conduct of the opposite parties on more than one occasion, contrary to law leaves much to be desired. The submission made today on their behalf that it was a bona fide mistake, for which they seek an apology does not impress the Court. The Court is constrained to observe that the opposite parties appear to be exercising their administrative powers more in breach than in accordance with law. In the nature of their conduct, the Court could have drawn up proceedings in contempt against them as compliance of the Court order does not mean 3 pretence of a compliance but compliance in accordance with law. The Court however refrains from initiating proceeding in the contempt jurisdiction against them. Even while refraining from doing so the Court could also have imposed heavy costs on the opposite parties not only for wasting the time of the Court but also for abuse of their powers held in trust on behalf of the government, entrusted for use and not abuse. The Court refrains from such orders also. The order of the Court is directed to be placed appropriately for attention of the disciplinary authority over the Chief Engineer and the Executive Engineer for administrative decision. The petitioner is now aware of the hearing fixed on 24.1.2012. Let him appear personally or through his representative before the Chief Engineer when it is expected that the Chief Engineer shall now in his own interest, pass a reasoned and speaking order disclosing proper application of mind and in consonance with the law. The proceeding stands disposed. P. Kumar (Navin Sinha, J.)