

Shri Ramcharitra Roy

Vs

The High Court of Patna and Another

Writ Petition No. 56 of 1972

(M. H. Beg, R. S. Sarkaria, P. N. Shinghal JJ)

02.12.1975

JUDGMENT

BEG, J. -

1. The petitioner under Article 32 of the Constitution makes the following allegations :

(1) He was a Bench Clerk in the Additional Sub-Judge's, Court, Purnea, in 1967. On May 20, 1967, the District Judge, Purnea, asked for an explanation from him with regard to a land acquisition case No. 119 of 1958 as to why the record of the case was not put up expeditiously before the presiding officer and a date fixed for consideration of the sarishtadar's report. He gave the explanation that he was for the dealing assistant for land acquisition cases. On June 15, 1967, the District Judge, Purnea, rejecting the correctness of the petitioner's stand, required the petitioner to show cause why his increments and promotion should not be stopped. The petitioner repeated his explanation. He was called by the District Judge on August 1, 1967, in his chamber and heard personally. On August 8, 1967, the District Judge passed an order that the petitioner's increment and promotion be stopped for two years from August 1, 1967.

(2) On August 30, 1967, the District Judge, Purnea, drew up a list of persons promoted but did not include the name of the petitioner in it. The petitioner appealed to the High Court. By its letter dated September 10, 1970, the High Court allowed it and asked the District Judge to reconsider his case. On November 7, 1970, the then District Judge of Purnea ordered that the petitioner be promoted will effect from the date from which he was entitled to such promotion subjected only to the condition that he will not be entitled to arrears of salary from the date of promotion. The petitioner then made a representation to the District Judge for the alleged arrears of his salary which he had not received but this was rejected. The petitioner again appealed to the Chief Justice of the Patna High Court against the order of the District Judge passed on November 7, 1970, refusing the arrears of salary. He represented that other clerks had received their arrears. He also alleged that his pension would also be affected by stoppage of increments.

(3) He had not approached the High Court under Article 226 of the Constitution, because, he says, a Full Bench of the High Court of Patna in AIR 1952 Pat 309 (ILR 1952 Pat 405) (in Re : Babul Chandra Mittra) had laid down that no writ petition lay in the High Court against orders of the High Court in its administrative capacity. He

alleged that he had been punished contrary to the provisions of Article 311(2) of the Constitution. He also alleged violation of his fundamental right under Article 16(1) of the Constitution.

2. No one has appeared on behalf of the petitioner to explain to us how any fundamental right of the petitioner has been affected. From the reply filed on behalf of the High Court it appears that there was a very detailed order by the District Judge of Purnea setting out the responsibility of the petitioner for delaying land acquisition case No. 119 of 1958 (Mrs. Dhana Laxmi Lal v. Rasik Lal) and the payment of compensation money of Rs. 24,140 to the lady concerned. The circumstances indicated that the petitioner, who was incharge of the case, had acted in violation of Rule 24 and directions given to him. The finding was that he had deliberately shelved the issue of a payment order in order to harass the litigant who was running from pillar to post for redress. Presumably, his object was dishonesty. He had been punished very lightly after his case had been sent back for further opportunity to be given to him to be heard. His appeal had been dismissed by the Chief Justice of the Patna High Court on November 8, 1971, by a detailed order full reasons disclosed there. No aspect of Article 16(1) of the Constitution can arise in this case. This writ petition is, therefore, dismissed, but, in the circumstances of the case, we make no order as to costs.

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