

(2023) 01 PAT CK 0036

Patna High Court

Case No: Letters Patent Appeal No. 982 Of 2019 In Civil Writ Jurisdiction Case No. 3965 Of 2016, Letters Patent Appeal No. 149 Of 2020 In Civil Writ Jurisdiction Case No. 3965 Of 2016

Sheo Nandan Singh

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Jan. 17, 2023

Hon'ble Judges: P. B. Bajanthri, J; Arun Kumar Jha, J

Bench: Division Bench

Advocate: Ashok Kumar Chaudhary, Bhola Kumar, Akshansh Ankit, Dharendra Kumar

Final Decision: Allowed/Dismissed

Judgement

1. Heard these two Letters Patent Appeals filed by Sheo Nandan Singh and State of Bihar insofar as challenge to the order of the learned Single

Judge dated 02.05.2019 passed in CWJC No. 3965 of 2016.

2. Appellant-Sheo Nandan Singh was involved in two criminal cases while he was in service. He was convicted in both the criminal proceedings on

21.12.2010. Taking note of the conviction order, the State proceeded to dismiss appellant-Sheo Nandan Singh on 31.12.2015, i.e., after five years from

the date of conviction dated 21.12.2010. Before the appellate Court, in both the Criminal Appeals, he has been acquitted on 02.08.2017 and 13.02.2019

respectively.

3. In this backdrop, question for consideration is whether the appellant-Sheo Nandan Singh is entitled to monetary benefits during the period from the

date of dismissal, i.e. 31.12.2015 till 31.01.2017, the date on which he would have retired from service, if he were in service. The appellant-Sheo

Nandan Singh submitted representation to the State to regulate the intervening period from the date of dismissal till date of acquittal or till date of retirement in the month of January, 2017.

4. Learned counsel for the appellant submitted that the learned Single Judge has committed error in not quashing the order of dismissal dated

31.12.2015. At the same time, he has taken a decision that the appellant-Sheo Nandan Singh is not entitled to any monetary benefits during the

intervening period from the date of dismissal, i.e., 31.12.2015 till acquittal. However, he has made an observation that Appellant-Sheo Nandan Singh is

entitled to pension from 18.02.2019. To that effect, the learned Single Judge has committed error.

5. Learned counsel for the State resisted the aforesaid contention of the appellant and further submitted that as long as order of dismissal is not set

aside by the learned Single Judge question of extending any pensionary benefits is not warranted. Therefore, ordering pension by the learned Single

Judge is incorrect.

6. Heard learned counsels for the respective parties.

7. Undisputed facts are that Appellant-Sheo Nandan Singh was involved in two criminal proceedings in which he was convicted on 21.12.2010. Based

on conviction he has been dismissal from service on 31.12.2015. He had preferred criminal appeals and it was allowed on 02.08.2017 and 13.02.2019.

Thus, both the orders of conviction dated 21.12.2010 were set aside. In this backdrop, question is whether the appellant-Sheo Nandan Singh is entitled

to service benefits and pensionary benefits or not?

8. Dismissal order is based on the conviction and it is not outcome of departmental inquiry. If the conviction order is set aside in a criminal appeal, in

that event, the appellant is entitled to regulate the services depending upon the facts of the case. In the present case, inadvertently learned Single

Judge has not set aside the order of dismissal dated 31.12.2015. Accordingly, we proceeded to set aside the order of dismissal dated 31.12.2015.

9. Appellant-Sheo Nandan Singh is not entitled to monetary benefits from the date of dismissal, i.e., from 31.12.2015 to 31st January, 2017 as he has

not discharged the duties of the post. Further, if an employee is convicted and acquitted later the intervening period cannot be regulated as a duty. In

other words, tax payer money cannot be paid to an accused. No doubt he has been acquitted in both the criminal proceedings on 02.08.2017 and

13.02.2019. At the same time, during the intervening period from the date of dismissal, i.e., dated 31.12.2015 till 13.02.2019, he was a convicted person.

10. In the light of these facts and circumstances, order of the learned Single Judge dated 02.05.2019 passed in CWJC No. 3965 of 2016 stands

modified. The appellant-Sheo Nandan Singh is entitled to only monetary benefits from 1st February, 2017 with reference to the date that had he been

in service he would have attained the age of superannuation and retired from service on 31st January, 2017. The intervening period from 31.12.2015 to

31.01.2017 be counted for the purpose of fixation of pension only. He is entitled to arrears of pension from 1st February, 2017 till date the same shall

be calculated and disbursed in favour of him within a period of three months from the date of receipt of this order.

11. Accordingly, Letters Patent Appeal No. 982 of 2019 filed on behalf of Appellant-Sheo Nandan Singh stands allowed and Letters Patent Appeal

No. 149 of 2020 filed on behalf the State of Bihar stands rejected.