

(2006) 08 JH CK 0059
Jharkhand High Court
Case No: None

Vakil Prasad Singh

APPELLANT

Vs

Bihar State Electricity Board and
Others

RESPONDENT

Date of Decision: Aug. 28, 2006

Citation: (2006) 4 JCR 605

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

R.K. Merathia, J.

This writ petition was filed by the petitioner for allowing him the entire promotional benefits allegedly with-held by the Board with effect from 15.5.1981 to 26.2.1999.

2. Learned Counsel for the petitioner submitted that petitioner was awarded several punishments by resolution dated 9.4.1999 (Annexure 1). One of such punishment was that he will not be granted promotion for ten years with effect from 27.2.1999. He further submitted that his case was kept pending during the aforesaid period by the Departmental Promotion Committee and. therefore, he is entitled to promotional benefits, otherwise it will amount to awarding punishment for a longer period than the actual punishment awarded of not granting promotion for ten years.

3. Mr. R. Krishna and Mr. A.K. Jha appearing for the respondents Boards submitted as follows. A First Information Report being Vigilance Police Case No 201 dated 8.4.1981 was lodged by an officer of the Vigilance Department against the petitioner alleging that he was trapped while taking bribe. In view of the said First Information Report and the departmental proceeding initiated against him, his case was kept pending. Ultimately, he was found guilty and has been punished by resolution dated 9.4.1999 (Annexure 1). This order of punishment has been upheld by this Court in

CWJC No. 1811 of 1999 (R) today. Petitioner's case for promotion was considered in various meetings of the Departmental Promotion Committee, but he was found unfit. Apart from the said vigilance case No. 201 of 1981, other vigilance case was also instituted against him in the year 1998 being Vigilance Case No. 17 of 1998. Petitioner is/was involved in several departmental proceedings and in some of the proceedings, he has been found guilty also and for these reasons, he was found unfit for promotion. ? Relevant portion of para-graph-29 of the decision of the Supreme Court in the case of [Union of India Vs. K.V. Jankiraman, etc. etc.,](#), relied by the respondents reads as under:

According to us, the Tribunal has erred in holding that when an officer is found guilty in the discharge of his duties, an imposition of penalty is all that is necessary to improve his conduct and to enforce discipline and ensure purity in the administration. In the first instance, the penalty short of dismissal will vary from reduction in rank to censure. We are sure that the Tribunal has not intended that the promotion should be given to the officer from the original date even when the penalty is imparted is of reduction in rank. On principle, for the same reasons, the officer cannot be rewarded by promotion as a matter of course even if the penalty is other than that, of the reduction in rank. An employee has no right to promotion. He has only a right to be considered for promotion. The promotion to a post and more so, to a selection post, depends upon several circumstances. To qualify for promotion, the least that is expected of an employee is to have an unblemished record. That is the minimum expected to ensure a clean and efficient administration and to protect the public interests. An employee found guilty of a misconduct cannot be placed on par with the other employees and his case has to be treated differently. There is, therefore, no discrimination when in the matter of promotion, he is treated differently. The least that is expected of any administration is that it does not reward an employee with promotion retrospectively from a date when for his conduct before that date he is penalised in praesenti. When an employee is held guilty and penalised and is, therefore, not promoted at least till the date on which he is penalised, he cannot be said to have been subjected to a further penalty on that account. A denial of promotion in such circumstances is not a penalty but a necessary consequence of his conduct. In fact, while considering an employee for promotion his whole record has to be taken into consideration and if a promotion committee takes the penalties imposed upon the employee into consideration and denies him the promotion, such denial is not illegal and unjustified. If, further, the promoting authority can take into consideration the penalty or penalties awarded to an employee in the past while considering his promotion and deny him promotion on that ground, it will be irrational to hold that it cannot take the penalty into consideration when it is imposed at a later date because of the pendency of the proceedings, although it is for conduct prior to the date the authority considers the promotion.

4. This judgment clearly negatives the petitioner's claim for promotional benefits between 15.5.1981 to 26.2.1999, during when the criminal case and the departmental proceedings were admittedly pending.
5. In the result, this writ petition is dismissed. No costs, Petition dismissed. No costs.