

Arvind Kumar Sharma Vs The State of Bihar and Others

Court: Patna High Court

Date of Decision: May 10, 2012

Citation: (2013) 1 PLJR 59

Hon'ble Judges: J.N. Singh, J

Bench: Single Bench

Advocate: Ray Saurabh Nath, for the Appellant; Tej Bahadur Singh, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

J.N. Singh, J.

Annexure-13 is an order inflicting punishment on the petitioner after conclusion of a departmental proceeding. Against the

said order, petitioner filed his appeal before the Appellate Authority-cum-Principal Secretary, Health Department. A copy of his memo of appeal

is annexed as Annexure-15 with the writ application. From the said memo, it appears that petitioner had taken several grounds and explained detail

circumstances in his defence. But the order of the Appellate Authority, as contained in Annexure-16, shows that his appeal was dismissed with

hardly any change in the original punishment order. It is also apparent from the order of the Appellate Authority that none of the grounds taken by

the petitioner in his memo of appeal and materials produced by him in his defence were considered by it. Statutory Appellate Authority as

prescribed under the Rules exercises quasi judicial powers. Therefore, the Appellate Authority is also required to apply its independent mind to the

grounds taken in the memo of appeal by the delinquent and the defence taken by him. It just cannot mechanically adopt the same order of the

disciplinary authority for disposing of the appeal of the delinquent preferred in terms of the Rules. If it does so, it will be failure of exercise of power

on its part as assigned by the law. Impugned order of the Appellate Authority apparently amounts to failure on his part as an Appellate Authority to

exercise its jurisdiction vested in it by law.

2. In the circumstances, the order contained in Memo No. 1836(4) dated 10.10.2011, as contained in Annexure-16 is quashed. The Principal

Secretary-cum-Appellate Authority is directed to apply his mind to the contents of the memo of appeal filed by the petitioner in detail, deal with

each and every ground taken by him and the materials produced by him specifically and thereafter pass a speaking order in accordance with law,

showing complete application of mind in the matter positively within two months from the date of receipt/production of a copy of this order. In the

process, if necessary, the Appellate Authority may hear the petitioner in person. This writ application is accordingly allowed with the aforesaid

observations and directions.