

(2007) 02 PAT CK 0163

Patna High Court

Case No: Criminal Appeal No. 249 of 2004 (D.B.)

Janaki Devi Vidyapati
Yadav

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision: Feb. 14, 2007

Acts Referred:

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 18, 20(b)(ii)(B), 21(c), 41(2), 54

Citation: (2007) 2 PLJR 373

Hon'ble Judges: Rekha Kumari, J; Chandramauli Kr. Pd., J

Bench: Division Bench

Advocate: Suresh Prasad Singh, Bibhakar Tiwary and Sushil Kumar Singh, for the Appellant; Lala Kailash Bihari Prasad, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.N. Jha, J.

The Petitioner is aggrieved by an order, copy whereof has been enclosed as Annexure-5 to the supplementary affidavit filed today, whereby he has been posted as Chaukidar in the Insemination Bank of the Animal Husbandry Department.

2. According to the Petitioner, the order amounts to his reversion from the post of Bull Attendant. His grievance is that he cannot be reverted save by way of a disciplinary action on charge. The submission is misconceived. It is admitted position that the Petitioner was appointed initially on the post of Chaukidar in the scale of Rs. 17 1/2-25. He was however adjusted on the post of Bull Attendant carrying higher scale of pay, viz. Rs. 65 -72. This amounted to converting the post which could not be done by the Deputy Director. By the impugned order he has been merely posted on the post on which he was substantively appointed.

3. Counsel submitted that he was posted as Bull Attendant way back in 1972 and having performed the duties of the post and acquired experience thereof he could not be reverted to a lower post. He also submitted that if any error was committed the Petitioner should not be made to suffer.

4. It is not necessary to go into the question as to whether the order posting the Petitioner as Bull Attendant on 29.6.72 was at his instance. There being inherent illegality in the order, what has been done by the present order is to rectify the mistake committed earlier. Any interference will result in revival of an illegal order which should not be done in writ jurisdiction. Nevertheless, I would observe that if the Petitioner has been paid salary of the post of Bull Attendant all these years the same may not be recovered from him at this stage.

5. Subject to the above observation, the petition is dismissed.