

GOVT. APPEAL (SJ) No.6 OF 2001

Against the judgment and order dated 20.2.2001
passed by Sri Prabodh Ranjan Dash, Special Judge,
C. B. I. North Bihar, Patna in Special Case No. 12
of 1988

UNION OF INDIA THROUGH.C.B.I.----- (Appellant)
Versus
GAURI KANT PRASAD----- (Respondent)

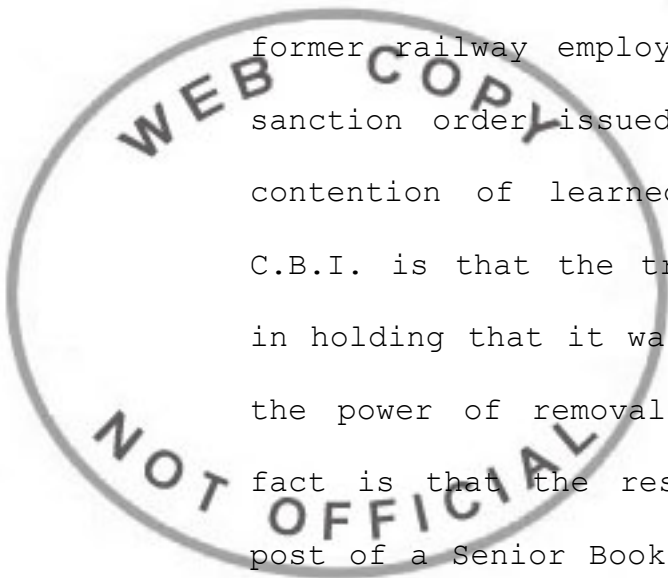
For the Appellant: Mr. Bipin Kumar Sinha, S.C. (CBI)
For the Respondent: Mr. K.N.Diwakar, Advocate

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P R E S E N T

THE HON'BLE MR. JUSTICE AJAY KUMAR TRIPATHI

A.K.Tripathi, J. The present appeal filed on behalf of the Central Bureau of Investigation is directed against the judgment dated 20.2.2001. The Special Judge, C.B.I. North Bihar has acquitted the respondent, a former railway employee on the ground of invalid sanction order issued in the matter. The primary contention of learned counsel appearing for the C.B.I. is that the trial court has patently erred in holding that it was the General Manager who had the power of removal of the accused whereas the fact is that the respondent who was holding the post of a Senior Booking Clerk could be removed by the Divisional Commercial Superintendent who had granted sanction for prosecution in the present case. He has produced before this Court an appointment letter dated 14.8.1957 which has been signed by the District Traffic Superintendent. This according to learned counsel should remove all the



misgiving about the rank and the person who was competent to authorize sanction for prosecution.

The issue is as to why the prosecution did not produce all the evidence and materials before the trial court. A reading of para 215 (a) (c) of the Indian Railway Establishment Code Volume-1 prima facie gave the impression to the trial court that in matters of appointment of Groups C and D posts of Railway servant it was the General Manager who was the competent authority and such a view has been supported by few decisions of the Patna High Court which has been noted in the decision rendered by the trial court. The trial court has committed no error. The failure on the part of the prosecution to bring all the materials at the relevant time cannot be used as a ground now to upturn the judgment, more so in a matter which was initiated way back in the year, 1986-87, the respondent having superannuated in the year, 1994 and the acquittal order having been passed in the year, 2001.

The Court does not find any cogent and legal reason to interfere with the judgment under appeal.

The appeal is dismissed.

(Ajay Kumar Tripathi, J)

PATNA HIGH COURT, PATNA
DATED THE 30th JUNE, 2008
N.A.F.R.RPS/ Sr.Secy.