

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12622 of 2000

Mrityunjai Prasad Singh, Son of Late Thakur Gajendra Narain Singh, resident of Sonepur, P.S.-Sonepur, District- Saran, Chapra.

.... Petitioner

Versus

1. Bihar State Electricity Board through its Chairman Vidyut Bhawan, Bailey Road, Patna.
2. Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
3. Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Banwari Sharma, Adv.
Mr. Nilesh Kumar Nirala, Adv.

For the Respondent/s : Mr. Vinay Kirti Singh, Adv.
Mr. Vijay Kumar Verma, Adv.
S.B.P.D. Com. Ltd.

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL JUDGMENT

Date: 17-07-2015

In the present writ application, filed under Article 226 of the Constitution of India, the petitioner is aggrieved by an order dated 09.06.2000 issued vide Memo No. 1130 under the signature of Joint Secretary, erstwhile Bihar State Electricity Board, Patna (now South Bihar Power Distribution Company Limited, Patna, the Successor Company of the erstwhile Board), whereby punishment of reversion from the Post of Meter Inspector to the Post of Meter Reader under the Board, has been imposed upon him. The petitioner appears to have preferred an appeal against the said order of punishment, that came to be dismissed vide order dated 19.10.2000 which is also under challenge.



2. A disciplinary proceeding was initiated against the petitioner with the issuance of a chargesheet dated 28.03.1997, on the basis of a letter written by the Member, Bihar Legislative Assembly to the Chairman of the Board. It was alleged against him that he had demanded a sum of Rs. 100/- from one Geeta Sharma, a consumer for the purpose of issuance of electricity bills. The chargesheet has been brought on record by way of Annexure-3 to the writ application and the said letter, on the basis of which, the disciplinary proceeding was initiated against him, forms part of the said chargesheet. The petitioner was asked to submit his written statement of his defence in response to issuance of the chargesheet. The petitioner denied the charge levelled against him in his written statement of his defence. He took a plea that it was not his duty and function as Meter Inspectors to draw energy bills and computerized bills used to come to Meter Inspector in duly printed forms from the Accounts (Revenue) Department of the Board for distribution among the respective Inspectors, who, accordingly, drew bills on the basis of consumption of energy. The Enquiry Officer submitted his report on 02.08.1999 opining that action can be taken against the petitioner for the charge levelled against him. From the Enquiry Report, which has been brought on record by way of Annexure-5 to the writ application, it appears that the said Geeta Sharma, from whom the petitioner is



alleged to have demanded money for giving her electricity bills, was not examined. One Janardan Prasad Singh, Electrical Superintending Engineer and Mathura Prasad were the two witnesses, who were examined in course of the departmental enquiry and no other witness was examined. As regards, Mathura Prasad, from the enquiry report, it appears that he did not prove the allegation that the petitioner had demanded money for supplying correct electricity bills. It also appears that Janardan Prasad Singh also did not say anything about the allegation that the petitioner had demanded money, as alleged in the chargesheet, from the consumer. It further appears from the enquiry report that one Chaturanan Jha, a retired employee of the Board, had met the complainant, Geeta Sharma and she had made a complaint to this effect to Chaturanan Jha, who was also not examined.

3. From the report of the Enquiry Officer, I find that there is no finding to the effect that the charge levelled against the petitioner stood proved.

4. The Joint Secretary of the Board, the Disciplinary Authority, vide his office order dated 22.01.2000, recording his difference from the report of the Enquiry Officer, came to a finding that the charge against the petitioner of demanding bribe from the consumer stood proved. According to him, the witnesses proved this allegation in course of the departmental enquiry. He, accordingly



issued show cause notice dated 22.01.2000 (Annexure-6) asking the petitioner to explain as to why punishment of reversal from the post of Meter Inspector to the Post of Meter Reader be not imposed upon him. The petitioner filed his detailed reply to the second show cause notice, which did not find favour with the Disciplinary Authority. The Disciplinary Authority, accordingly, vide his impugned order dated 09.06.2000, imposed punishment of reversion in rank upon the petitioner. Petitioner's appeal against the said punishment of reversion from the post of Meter Inspector to the post of Meter Reader, as has been noted above, subsequently came to be dismissed by an order dated 19.10.2000 (Annexure-2). This is the circumstance in which the petitioner has questioned the legality of the order of the Disciplinary Authority dated 09.06.2000 and the Appellate Authority dated 19.10.2000.

5. Mr. Banwari Sharma appearing on behalf of the petitioner contends that it is a case of no evidence and the finding of the Disciplinary Authority holding the charge against the petitioner that he demanded money from the consumer, is perverse. He has submitted that there was absolutely no evidence adduced in course of the departmental enquiry in support of the charge that the petitioner had demanded bribe from the consumer Geeta Sharma. He has submitted that name of Geeta Sharma was not mentioned in the list of



witnesses along with the chargesheet and one Chaturanan Jha, who is said to have known to the allegation of demand of bribe by the petitioner from the consumer, did not come before the Enquiry Officer in course of the departmental enquiry to adduce evidence. He has submitted that the consumer and the said Chaturanan Jha were crucial witnesses to prove the charge and in their absence, the charge levelled against the petitioner could not be said to have been proved.

6. He has further submitted that there is no specific finding by the Enquiry Officer as regards the petitioner's guilt nor there is specific finding that charge against the petitioner stood proved.

7. He has further submitted that by issuing second show cause notice, the Disciplinary Authority has recorded that he disagreed with the findings of the Enquiry Officer. However, before coming to such finding, he did not supply to the petitioner tentative notes of his disagreement, if he intended to disagree with the findings. This procedure is violative of Principles of Natural Justice, he contends.

8. I find substance in submission made on behalf of the petitioner that non-examination of crucial witnesses in course of departmental enquiry, took away the petitioner's right to cross-examine them and disprove the allegation levelled against him. This



view finds support from Supreme Court decision in case of ***Commissioner of Police Vs. Jai Bhagwan reported in (2011) 6 SCC 376***. As a matter of fact, in the present case I find no material to form even strong suspicion of the petitioner's misconduct of demand of bribe in the absence of any cogent explanation as to why the crucial witnesses were not summoned for examination by the Enquiry Officer.

9. Non-examination of the complainant or the said Chaturanan Jha, who is said to have been known the occurrence, in my opinion, vitiates the findings, recorded by the Disciplinary Authority that the charge against the petitioner of demand of bribe stood proved. Finding to this effect recorded by the Disciplinary Authority, in my opinion, is perverse on the face of it, as no material has been referred to, either in the enquiry report or in the order passed by the Disciplinary Authority or in the second show cause notice or in the final order passed by the Disciplinary Authority on the basis of which it could be conclusively said that the petitioner had demanded bribe from the consumer. The Supreme Court has held, in case of ***Union of India Vs. Gyan Chandra reported in (2009) 12 SCC 78*** that charge of corruption in a disciplinary proceeding requires to be proved to the hilt as it brings civil and criminal consequences, both.

10. The order passed on petitioner's appeal is ex facie,

illegal, as it does not disclose any application of mind. The impugned order dated 09.06.2000 issued by Memo No. 1130 (Annexure-1) as well as the order dated 19.10.2000 issued by the Memo No. 1736 are, accordingly, quashed, being unsustainable.

11. The petitioner shall be entitled for all consequential benefits including the benefits of the difference of salary, which was denied to him because of the illegal order of reversion in rank, which has been quashed by the present order. The Respondents are directed to proceed, as if no such order dated 09.06.2000 was ever passed.

12. This application is, accordingly, allowed.

13. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J.)

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