

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12445 of 2013

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Gopal Jha, son of late Bishwanath Jha, resident of Village-Rambhadrapur,
P.O. Madanpur, P.S. Bahadurpur (O.P. Pator), District- Darbhanga
.... Petitioner/s

Versus

1. The Bihar State Road Transport Corporation, Pariwahan Bhawan, Patna through its Administrator
2. The Administrator, Bihar State Road Transport Corporation, Pariwahan Bhawan, Patna.
3. The Chief of Administration, Bihar State Road Transport Corporation, Pariwahan Bhawan, Patna.
4. The Chief of Operations, Bihar State Road Transport Corporation, Pariwahan Bhawan, Patna
5. The Divisional Manager, Darbhanga Division, Bihar State Road Transport Corporation, Darbhanga
6. The Depot Superintendent, Darbhanga Depot, Bihar State Road Transport Corporation, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Advocate.

For the Respondent/s : Mr. P.K. Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

9 05-01-2015 Heard the parties.

In the present writ petition petitioner is challenging the order of punishment issued vide Office Order No. 267 dated 22.5.2012 by which he has been awarded punishment of censor and he would not be given any salary save and except the subsistence allowance during the period of suspension.

A departmental proceeding was initiated against the petitioner for being party to the strike and threatening the worker to participate in the strike and also causing damage to the property of the Corporation and the action of the



petitioner along with others has caused financial loss to the Corporation. After the departmental proceeding the Enquiry Officer has submitted the enquiry report which is Annexure B to the counter affidavit where he has found that petitioner has threatened certain persons and accordingly charges were found proved partly. In pursuance thereof without giving any show cause or enquiry report to the petitioner the Corporation has passed the impugned order dated 22.5.2012.

Learned counsel for the petitioner has filed a supplementary affidavit today where he has made specific statement in paragraph 2 that petitioner was not given the enquiry report or any second show cause demanding his explanation on the report of the Enquiry Officer and as such the order of punishment is not sustainable. He has further submitted witnesses examined by the Corporation did not whisper a word against the petitioner which may constitute misconduct in the eyes of law.

Learned counsel for the Corporation submits that even though the enquiry report was not given or second show cause was not served the same does cause any prejudice to the petitioner and there is no provision in the standing order

of the Corporation to grant him second show cause and enquiry report.

In the case of Union of India Vs. Ramzan Khan, reported in AIR 1991 SC 471 and in the case of Managing Director ECIL V. B. Karmkar, reported in 1993 (4) SCC 717 the Hon'ble Supreme Court has said that giving the enquiry report and asking explanation from the delinquent is part of the natural justice.

In view of the aforesaid judgment Office Order NO.267 dated 22.5.2012 is hereby quashed and matter is remanded back to the Corporation to enable the Corporation to give second show cause along with enquiry report and petitioner will be at liberty to file his explanation and thereafter the Corporation will pass the order looking to the facts and circumstances of this case.

With the aforesaid observation and direction this writ petition is allowed.

Vinay/-

(Shivaji Pandey, J)

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