

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1507 of 2014

IN

Civil Writ Jurisdiction Case No. 9938 of 2014

=====

Lal Babu Choudhary, Son of Late Ram Sagar Choudhary, Resident of Village-Bagahi, P.O-Ramnagar, P.S-Runnisaidpur, District-Sitamarhi

.... Appellant

Versus

1. The State of Bihar
2. The Director, Agriculture Department, Govt. of Bihar, Patna
3. Joint Director, Agriculture, Tirhut Division, Muzaffarpur
4. District Agriculture Officer, District-Muzaffarpur
5. Sub-Divisional Agriculture Officer, Muzaffarpur East-cum-District Regional Manager, District Agriculture Region, Mushahari, Muzaffarpur.

.... Respondents

=====

Appearance :

For the Appellant : Mr. Rajeev Ranjan, Adv.
Bela Singh, Adv.

For the Respondents : Mr. GP24- ANSHUMAN SINGH
Sri Ram Ksirhna, Adv.

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-07-2015

The appellant is the unsuccessful petitioner in C.W.J.C. No.9938 of 2014. He was working as Farm Sardar in the District Agriculture Farm, Mushahari, Muzaffarpur. Through order dated 20th of May, 2014, the 3rd respondent herein retired the appellant compulsorily in exercise of power under Rule-74A of the Bihar Service Code (for short Rule-74A). The writ petition was filed challenging the said order. The appellant pleaded that the order was passed contrary to



Rule-74A, in that, the matter was not referred to a committee and that on merits also there was no basis for the 3rd respondent to pass that order. The respondents filed a counter affidavit opposing the writ petition. They pleaded that on noticing certain facts of indiscipline and misconduct on part of the appellant, two show cause notices were issued and, since it was realized that the service of the appellant can be dispensed with, by exercising power under Rule-74A, the impugned order was passed. It was also mentioned that no punishment as such was passed. Learned single Judge dismissed the writ petition through order under appeal. Hence, this Letters Patent Appeal.

Heard Shri Rajeev Ranjan and Bela Singh, learned counsel for the appellant and Shri Anshuman Singh and Sri Ram Krishna, learned counsel for the respondents.

Rule-74A permits the appointing authority in any government department to compulsorily retire an employee, subject to certain conditions such as that the employee should have been on duty for 21 years, in the service of 25 years. The appellant completed 25 years of service.

The record discloses that initially an attempt was made to institute departmental proceedings. However,

an order of compulsory retirement was passed thereafter.

One of the arguments advanced by the appellant is that before the order of compulsory retirement was passed, the respondents ought to have referred the matter to a committee. Reference is made to certain administrative instructions and reliance is placed upon a judgment of this Court in Suraj Bans Singh Vs. The State of Bihar¹.

On a perusal of the judgment, we find that the learned Judge proceeded on the assumption that Rule-74A requires the matter to be referred to a committee. That, however, is not factually correct. It is only in the administrative instructions, that too as regards gazetted officers, that the Government indicated that the matter must be referred to a committee, before an order of compulsory retirement is passed. Such a requirement is not stipulated in respect of non-gazetted officers.

Further, it is fairly well settled that administrative instructions are directory in nature and non-compliance with the same does not render the proceedings invalid. Arguments are advanced on merits also. We are not inclined to entertain the same, for the reason that the order of compulsory retirement does not tantamount to

1. 2011 (4) P.L.J.R. 227

punishment, and the appointing authority is not under obligation to assign any reasons. Paramount consideration is public interest.

We, therefore, dismiss the Appeal.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

(Anjana Mishra, J)

K.C.jha/-
A.F.R.

U			
---	--	--	--