

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4492 of 2005

Dayal Sharan Baxi son of Late Baxi Harihar Prasad, resident of village , P.S. Murar, District Buxar (Bihar) Ex. Selection grade Assistant of the Bihar State Ware Housing Corporation, Maurya Lok Complex Patna Presently residing in the house of Sri Ram Kishun Singh , I.K. Gujral Road, Bhabha Colony Hanuman Nagar, Kankarbagh, Patna-20

.... Petitioner

Versus

1. Bihar State Warehousing Corporation Maurya Lok Complex, First floor, Block-B, Dak Banglow Road, Patna through its Managing Director.
2. Managing Director, Bihar State Warehousing Corporation, Maurya Lok Complex, Ist Floor, Block- B Dak Banglow Road, Patna-1.

.... Respondents

Appearance:

For the Petitioner : Mr. Alok Kumar -1

For the Bihar State Warehousing Corporation : Mr. Prashant Wibhaw, Advocate

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 28-04-2015

Heard Mr. Alok Kumar No.1 counsel for the petitioner, Mr. Prashant Wibhaw the counsel for the Bihar State Warehousing Corporation (for short 'the Corporation') and Mr. Yugal Kishore, learned Sr. counsel, who was requested to assist the Court to explain the legal issues.

The petitioner was serving as Class III employee of the Corporation. For certain charges he was proceeded against departmentally by the Corporation wherein by an order dated 13.6.1998 he was dismissed from service. The writ application was filed in 2005 for payment of retiral dues. The petitioner in paragraph nos. 6 and 7 stated as under:-

“6. That in the year 1988 all of a sudden without any proper opportunity of show cause petitioner was placed under suspension vide memo no. 1840 dated 18.5.88 for the charges of short fall in stocks at the Buxar and Ara centre for the period while petitioner was posted at those centres. Thereafter a departmental proceeding was initiated against the petitioner by serving

the charge sheet and after the series of battle between petitioner and the respondent ware Housing Corporation petitioner was ultimately dismissed from service by an ex-parte order bearing memo no. 1195 dated 13.6.98.

7. That it is stated and submitted that petitioner had already challenged the said order of dismissal in C.W.J.C. No. 7219 of 1998 which was admitted by this Hon'ble Court vide order dated 28.7.99 and the said case is still pending for hearing before this Hon'ble Court."

A copy of the judgment dated 16.2.2015 passed in C.W.J.C.

No. 7219 of 1998 has been handed in by the counsel for the petitioner which is placed on record marked 'X' for identification. It appears therefrom that writ petition being C.W.J.C. No. 7219 of 1998 has been disposed of. The order of punishment has been set aside and the matter has been remanded to the disciplinary authority for passing a fresh order. Relevant portion of the said order runs thus:-

"13. It has been informed by the learned counsel for the petitioners that the petitioners, during the pendency of the writ applications, have retired after attaining the age of superannuation. Keeping in view the changed circumstance, I would direct the Managing Director to take a final decision in the departmental proceeding upon remand of the matter by this Court considering as it he were passing the said order on the date that the earlier order was passed. This order I am passing because otherwise it may give rise to certain complications because the petitioners in the meanwhile retired. The petitioners' entitlement shall certainly be governed by the decision to be taken by the Managing Director upon remand by the present order. Such decision must be taken within a period of six months from the date of receipt/production of a copy of this order."

Learned counsel for the petitioner rightly submitted that the present application be disposed of permitting the petitioner to file a fresh one, if need be, once the appropriate/competent authority of the Corporation passes a fresh order in the light of the order dated 16.2.2015 passed in C.W.J.C. No. 7219 of 1998.

Counsel for the Corporation has not opposed the said submission of the counsel for the petitioner.

Accordingly, the writ application is disposed of with the aforesaid liberty.

(Kishore Kumar Mandal, J)

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