

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14728 of 2008

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Shri Niwas Singh, son of Shri Ram Rahasya Singh, resident of village- Gosainpur,
P.O. Shri Khinda Via Garh Nokha, P.S. Garh Nokha, District Rohtas

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Govt. of Bihar, Patna
2. The Commissioner-cum- Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The Dy. Secretary, Water Resources Department, Govt. of Bihar, Patna
4. The Engineer-in-Chief (Middle), Water Resources Department, Govt. of Bihar, Patna
5. Shri Ram Prasad Ram, The Enquiry Officer- cum- the Superintending Engineer, High Level Sone Canal Circle, Aurangabad

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Kumar

For the Respondent/s : Mr. Mrityunjay Kr. Jha, AC to SC 3

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 30-04-2015

Petitioner was proceeded against departmentally after being put under suspension. The charges are Annexure- 2. An enquiry was held and the enquiry officer, who happened to be the Superintending Engineer, has exonerated the petitioner giving him benefit of doubt. The grievance of the petitioner is that despite exoneration by the enquiry officer, petitioner has been punished by issuing a notice of disagreement. The punishment is censure for the year 2003-2004, withholding of two increments without cumulative effect as well as non- payment of salary for the period of suspension except subsistence allowance.

The Court is not inclined to interfere with two other punishments because facts speak for themselves. The explanation offered by the petitioner that the damage was caused due to a squall has not been established by any evidence. It was his duty to do so because it was his defence. However, since the procedure under Rule 97 of the Bihar Service Code has not been followed, therefore, the punishment of withholding of salary except subsistence allowance during the period of suspension is hereby quashed.

Writ is allowed to the extent indicated above. Petitioner will beget the benefit by virtue of the order within a reasonable time frame.

(Ajay Kumar Tripathi, J)

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