

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10304 of 2008

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Surendra Kumar Agrawal, son of late Rewati Raman Prasad, resident of Mohalla- Maurya Bihar Colony, Near BMP-16, P.O. Phulwari, P.S.-Khagaul in the district of Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Deputy Secretary to the Government, Water Resources Department, Patna.
4. Surya Narayan Das, Son of (present, not known to the petitioner). Deputy Secretary to the Government, Water Resources Department, Government of Bihar, Patna..

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate.

For the Respondent/s : Mr. Sudhir Kumar, AC to AAG-2

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

5 10-08-2015

Heard learned counsel for the parties.

2. When this writ application was filed on 15.07.2008,

the prayer of the petitioner had read as follows:

"1.(A) For quashing the resolution, vide Memo no. 399 dated 22nd May 2008, issued under the signature of Sri Surya Narayan Das, Deputy Secretary to the Government, respondent no. 4, as contained in Annexure-4, whereby and whereunder the petitioner has been communicated about the institution of proceeding under Section 43(B) of the Pension Rules for committing irregularity, appointing Sri Ram Bilas Choudahry, Superintending Engineer, Punpun Flood Control Circle, Patna as the Enquiry Officer to enquire into the matter on alleged two charges framed against the petitioner in proforma-Ka relating to the year 2002-03, while the petitioner was posted as the supdE in the office of Barrage Circle, Birpur.

(B) Also not to give effect to the Memo No. 399 dated 22nd May 2008 issued under the signature of the Deputy Secretary to the Government by the order of the Hon'ble Governor, Bihar against the petitioner in any manner.

3. During pendency of this writ application, the proceeding under Rule 43(b) of the Bihar Pension Rules was initiated against the petitioner and the petitioner had participated in the same whereafter the enquiry officer had also submitted his enquiry report and pursuant to such enquiry report final decision has now sought to be taken, as is evident from para-5 and 6 of the supplementary counter affidavit which reads as follows:

"5. That it is stated that the petitioner participated in the departmental enquiry by submitting his written defence before the enquiry officer pursuant to the departmental resolution as contained in Memo No. 399 dated 22.05.2008 by which a proceeding under Rule 43(b) of the Bihar Pension Rules had been initiated against him. The enquiry office submitted the enquiry report vide letter no. 4144 dated 23.12.2011 concluding that the proceeding against the petitioner under the said Rule is time barred and as such the charges against the petitioner could not be proved.

6. That, the aforesaid enquiry report was discussed in the Department at different levels and it has been proposed to drop the said proceeding accepting the conclusion of the enquiry officer. For the aid purpose approval of the competent authority is being sought for and as soon as the same is received, necessary follow up order will be issued immediately."

4. In view of the above, this writ application challenging initiation of proceeding under Rules 43(b) of the

Rules, has definitely become infructuous.

5. As a matter of fact, in view of the subsequent event, the respondents are hereby directed to ensure that a final decision in terms of para-5 of the supplementary counter affidavit must be taken forthwith so that whatever admissibility/eligibility of the petitioner is found in the matter of withholding of amount of retirement benefit, must be finalized as early as possible but not in any event beyond the period of four months from the date of receipt of a copy of this order.

6. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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