

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3219 of 2015

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1. Virendra Kumar son of Late Mangal Das Resident of village - Maripur School Road, Muzaffarpur, P.S. Kazi Mohammadpur, District - Muzaffarpur, presently residing at Magistrate Colony, Ashiana Nagar, P.S. Rajeev Nagar, District - Patna, presently posted as Executive Engineer, Monitoring, Road Construction Department, Road Circle, Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Deputy Secretary (Vigilance), Road Construction Department, Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Bhushan Kumar Manglam, Adv.
For the Respondent/s : Mr. Avinash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

3 28-04-2015 Both Annexures- 12 and 13 has been challenged by the petitioner, which are orders of punishment dated 06.02.2014 by virtue of Annexure-12, one annual increment without cumulative effect has been ordered to be withheld and by virtue of Annexure-13, petitioner's salary for the period of suspension except subsistence allowance has been ordered.

Annexure-3 is the charge-sheet which was drawn up against the petitioner after initially he was put under suspension on 07.03.2012. The Court is not required to reproduce the charge against the petitioner. However, an enquiry was held and the Enquiry Officer's report is Annexure-



7/1. Petitioner has been found guilty partially with regard to charge no. 1 and he was held guilty with regard to charge no.2 too. This formed the basis of imposition of the above two punishment. The Court has no hesitation in opining that it is casual manner in which he provided inputs and information to the superior authority led to initiation of the departmental proceeding including his suspension. There is also an allegation of harassing the low paid employee with regard to his prayer for promotion.

This Court may not interfere with the order of the punishment contained in Annexure-12, because it is not a case of exoneration nor can it be said that no case is made out against the charges levelled against the petitioner. The minimum punishment which can be imposed for the indiscretion of the petitioner has been imposed by the disciplinary authority.

However, the petitioner remained under suspension, awaiting departmental proceeding's conclusion a little too long specially, when the setof charges were hardly of the kind which required extensive taking of evidence or a very protracted kind of enquiry. The suspension was vacated only on 18.02.2014. The period of suspension, therefore, is almost two years. Withholding of salary of an employee for 2 years for nature of the charges, in the opinion of the Court is disproportionate. The punishment contained in Annexure-12 is

not integral with. It should be a lesson for the petitioner to be careful in future and conduct himself with responsibility as a Government servant. The second punishment of withholding salary except subsistence allowance is hitting the petitioner twice over which the petitioner does not deserved in the given facts.

To make things worse there is discrimination since the Superintending Engineer, who was also proceeded against has walked away without any punishment of withholding of salary for the period of suspension in similar circumstance. The Court, therefore, quashes the order of punishment dated 06.02.2014, contained in Annexure-13. However, the punishment as contained in Annexure-12 is not required to be interfered with.

The writ application stands allowed to the extent indicated above.

Let, the salary of the petitioner be paid within a period of three months from the date of receipt/production of a copy of this order.

(Ajay Kumar Tripathi, J)

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