

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.263 of 2000**

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Raj Kishore Singh, Son of late Vidya Singh, resident of Village-Kathyan, P.S.-  
Jalalpur, District-Saran.

.... .... **Petitioner/s**

Versus

1. Bihar State Electricity Board, through its Chairman, Vidyut Bhawan, Baily Road, Patna.
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Baily Road, Patna.
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Baily Road, Patna.
4. The Joint Secretary, Department of General Adminsitration, , Vidyut Bhawan, Baily Road, Patna.
5. General Manager Cum Chief Engineer, Tirhut Area Electricity Board, Muzaffarpur.
6. The Electrical Superintending Engineer, Electric Circle, Muzaffarpur.
7. The Electrical Executive Engineer, Electric Supply Division, Hajipur (Vaishali).

.... .... **Respondent/s**

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**Appearance :**

For the Petitioner/s : Mr. Vivekanand Singh, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Addl. Standing Counsel

Mr. Vijay Kumar Verma, Advocate

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH**

**ORAL JUDGMENT**

**Date: 14-07-2015**

Aggrieved by an order dated 26.06.1998, issued  
under the signature of the Joint Secretary, Bihar State  
Electricity Board (now North Bihar Power Distribution



Company Limited, the successor company), Patna (*hereinafter referred to as the “erstwhile Board”*), imposing punishment of dismissal from service of the erstwhile Board, on the petitioner on the alleged charge of his unauthorized occupation of the official quarter; and subsequent order passed by the Appellate Authority dated 16.04.1999, rejecting the petitioner’s appeal, preferred against the said order of dismissal, the petitioner had filed the present writ application.

2. During the pendency of the writ application, the erstwhile Board appears to have reconsidered the petitioner’s case and reviewed the order of punishment imposed upon him and modified the order of punishment by an order dated 23.01.2006, substituting the following punishments in place of the punishment of dismissal from service, imposed upon him earlier:-

- (i) *Stoppage of five annual increments with cumulative effect.*
- (ii) *Censure.*
- (iii) *No promotion will be given during the period of dismissal, i.e., 27.6.98 to till the date of issue of this order.*
- (iv) *The period of dismissal, i.e., from 27.6.98 to till the date of issue of this order, will be treated as no work no pay.*
- (v) *He is posted at Tirhut Electric Supply Area, Muzaffarpur with immediate effect.*



The petitioner has sought to challenge the said order dated 23.01.2006 by seeking amendment in the writ application through I.A. No. 2243 of 2012. I.A. No. 2243 of 2012 stands allowed. The averments made in I.A. No. 2243 of 2012 has been treated to be part of the original writ application with a permission to the petitioner to question the legality of the order dated 23.01.2006.

**3.** There are certain facts over which there is no dispute. The petitioner was a Bill Clerk under the erstwhile Board's service. He was posted at Electrical Supply Division, Hajipur. He was allotted official accommodation while posted at Hajipur. By office Order No. 127 dated 09.06.1993; he was transferred from Hajipur to Sitamarhi by the competent authority. Pursuant to the said order of transfer, he was relieved for the purpose of joining the place of his posting on 10.06.1993. Despite his transfer, he did not vacate the official quarter, which he was required to do by 11.07.1993, under the Rules framed by the erstwhile Board for allotment of quarter. As he did not vacate the official quarter, he was put under suspension by an order dated 09.11.1995, in contemplation of initiation of a departmental proceeding. A chargesheet to this effect was issued on



27.03.1996. A departmental proceeding against the petitioner, thus, commenced and Enquiry Officer was appointed, who submitted his report on 21.01.1998, holding that the charge against the petitioner of occupying erstwhile Board's quarter in unauthorized manner at Hajipur, despite his transfer from Electrical Supply Division, Hajipur, stood proved. A copy of the enquiry report was supplied to the petitioner, seeking his comments with an explanation as to why he be not dismissed from the service of the erstwhile Board. The petitioner submitted his comments in the light of said enquiry report. Considering the records of the departmental enquiry, report of the Enquiry Officer and the comments submitted by the petitioner on the report of the Enquiry Officer, the Disciplinary Authority, agreeing with the findings of the Enquiry Officer, imposed upon the petitioner punishment of dismissal from service of the erstwhile Board, by an order dated 26.06.1998. The petitioner, thereafter, preferred an appeal, which came to be rejected by an order dated 16.04.1999. Challenging the orders dated 26.06.1998 and 16.04.1999, respectively; the petitioner has filed the present writ application.

**4.** It seems that the erstwhile Board considered

the petitioner's representation against the said orders dated 26.06.1998 and 16.04.1999, respectively, to the extent which related to quantum of punishment and by an order dated 23.01.2006, the punishment of dismissal from service came to be modified, as has been indicated above.

5. Learned counsel appearing on behalf of the petitioner, while assailing the impugned order, has submitted that there was no fault on the part of the petitioner in retaining the official accommodation, as he was transferred from and to Hajipur on several occasions. He has also contended that because of domestic compulsions, the petitioner retained the official accommodation and for such violation on the part of the petitioner, punishment should not have been imposed, in the facts and circumstances of the case. Learned counsel for the petitioner has relied upon a recent Division Bench decision of this Court reported in **"2015(2) PLJR 358" [The Chairman, Bihar Rajya Jal Parishad & Ors. vs. Ganesh Chandra Prasad & Ors.]** and has, particularly, referred to the following portion of Paragraph - 11 of the said decision:-

*"11. .... At a time, when the highly placed officials are not vacating the palatial bungalows despite the orders of the Court, a poor employee like the respondent cannot be*

*blamed and be punished with dismissal from service for not vacating a small quarter, even after his transfer.”*

6. Learned counsel appearing on behalf of the respondents-the successor company, on the other hand, submitted that despite the fact that it was a major misconduct on the part of the petitioner, keeping in view the mitigating circumstances, the erstwhile Board took a sympathetic view and modified the punishment of dismissal from service of the company to less harsh punishment, which is minor in nature.

7. I do not find any substance in the submission made on behalf of the petitioner, while relying upon decision of Division Bench of this Court in case of “The Chairman, Bihar Rajya Jal Parishad & Ors. vs. Ganesh Chandra Prasad & Ors.” (*Supra*), in my opinion, does not lay down a law to that unauthorized occupation of official accommodation will not constitute misconduct.

8. From the pleadings on record and on the basis of submissions made on behalf of the parties, I find that there has been no procedural lapse in holding the departmental enquiry against the petitioner, inasmuch as, he was given due opportunity of being heard and participate in the departmental

enquiry. I also find that on the basis of proved misconduct, the respondents-erstwhile Board, imposed upon the petitioner the modified punishment, as has been quoted hereinabove. These punishments cannot be said to be disproportionate to the charge, which came to be proved against the petitioner.

**9.** I do not find any reason to interfere with the decision of the respondent-erstwhile Board. This application is, accordingly, dismissed.

**10.** There shall be, however, no order as to costs.

**(Chakradhari Sharan Singh, J)**

Praveen-II/-

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