

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7337 of 1999

=====

Birendra Pandey, Son of Sri Indradeo Pandey, Assisant Executive Engineer (Transmisssion), Board Headquarters, Patna, resident of Mohalla Park Road, Kadam Kuan, P.S.-Kadam Kuan, District-Patna.

.... **Petitioner/s**

Versus

1. The Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
3. The Joint Secretary, Bihar State Electricity Board, Department of General Administration, Vidyut Bhawan, Bailey Road, Patna.

.... **Respondent/s**

=====

Appearance :

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

For the Respondent/s : Mr. Vinay Kirti Singh, Advocate (Add. Standing counsel)

(SBPD Company Ltd.) Mr. Vijay Kumar Verma, Advocate

Mr. Akheleshwar Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 04-05-2015

Heard the learned counsel appearing on behalf of the parties.

2. The petitioner, in the present writ application, seeks quashing of the Resolution No. 112 dated 21.01.1999 passed by the Joint Secretary of the erstwhile Bihar State



Electricity Board (General Administration) (now South Bihar Power Distribution Company Limited) [hereinafter referred to as the erstwhile Board], whereby, a sum of Rs. 79,655/- has been ordered to be recovered from the petitioner. Through another Resolution issued vide No. 492 dated 31.03.1999, the Joint Secretary has enhanced the amount of recovery to Rs. 84,080/-. Both the orders aforementioned are under challenge in the present writ application, which have been brought on the record by way of Annexure-6 and Annexure-7 to the writ application.

3. The petitioner, at the relevant point of time, was posted as Assistant Executive Engineer (Maintenance) Fatuha Grid Sub-Station, where theft of conductor in 220 KV D/C Biharsharif-Fatuha transmission line was detected. It appears that by a letter dated 12.03.1998, the Chief Engineer (Transmission) called an explanation from the petitioner on certain points as to what action had he taken to prevent the theft of conductor. It was indicated in the said letter dated 12.03.1998 that there had been delay in completion of the work of restoration of 220 KV Biharsharif-Fatuha D/C transmission line and because of the negligence and in-different attitude on the part of the

petitioner, the delay in restoration of the said transmission line had occurred.

4. Vide Letter No. 930 dated 20.06.1998, the Joint Secretary of the erstwhile Board sought again an explanation as to why the loss sustained by the erstwhile Board because of negligence on account of the petitioner leading to theft of the conductor be not recovered from him. The amount of loss caused to the erstwhile Board was assessed to be 2,65,516/-. The petitioner again submitted his detailed explanation on 20.07.1998, giving the relevant particulars and taking a plea that he was not in any way answerable to the said loss caused on the account of theft of the conductor as well as delay in restoration of aforesaid affected transmission line as it was entirely due to the negligence of the concerned Junior Electrical Engineer because of which it happened.

5. Thereafter, the impugned order dated 21.01.1999 came to be passed holding the petitioner guilty of “indifference, negligence to work and dereliction of duties and thereby failed completely in due discharges of his duties, due to which the theft of conductor occurred”. It was decided to recover provisionally 30% of the pecuniary

loss sustained to the erstwhile Board, which was assessed to be Rs. 79,655/-. Subsequently, it was decided to recover 95/3% of the said loss caused, which came on calculation to Rs. 84,080/-.

6. Learned counsel appearing on behalf of the petitioner has submitted, referring to the impugned orders, that the orders do not at all deal with the explanations which the petitioner had submitted. He has, accordingly, submitted that the impugned orders do not disclose application of mind by the competent authority, inasmuch as; there is no discussion as to why the explanations submitted by the petitioner were not acceptable to him. He has further submitted that no fact has been referred to in the impugned orders on the basis of which it can be said that the petitioner was negligent or in-different in the work of restoration of the 220 KV D/C Biharsharif-Fatuha transmission line.

7. I find substance in the submission made on behalf of the petitioner. There is absolutely no discussion in the impugned orders as to why the explanations, which the petitioner had submitted, were not acceptable to the competent authority. The impugned orders do not reflect

application of mind, which is an essential element in any order passed by the authority exercising quasi judicial function. This Court and the Apex Court have repeatedly held in catena of decisions that the reason is heart and soul of an order passed by the quasi judicial authority having adverse civil consequence, and in the absence of reason, the order cannot be sustained.

8. The impugned orders dated 21.01.1999 (Annexure-6) and 31.03.1999 (Annexure-7) are, accordingly, quashed. This application is allowed.

9. It will, however, open to the respondents, i.e., Successor Company, to pass an order afresh after considering the explanations submitted by the petitioner in passing a reasoned order, which must reflect application of mind. If it is decided to proceed, in terms of the order of this Court, the same should be completed positively within a period of three months from the date of receipt/production of a copy of this judgment or not at all.

(Chakradhari Sharan Singh, J)

Praveen-II/-

U			
---	--	--	--