

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.353 of 2015

IN

Civil Writ Jurisdiction Case No. 19935 of 2014

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Sanjay Kumar Singh, Son of Sri Ambika Prasad Singh, resident of Village - Nadiyaeen, P.S. - Barun, District - Aurangabad, Executive Engineer, Public Health Engineering Department, District - Samastipur, Presently (under suspension) posted in the office of Regional Chief Engineer, Public Health Engineering Department, Bhagalpur Zone Bhagalpur.

.... Petitioner- Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Public Health Engineering Department, Government of Bihar, Patna.
3. The Additional Secretary, Public Health Engineering Department, Government of Bihar, Patna.
4. The Joint Secretary, Public Health Engineering Department, Government of Bihar, Patna.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. T. N. Maiteen, Senior Advocate
Mr. Ram Narayan, Advocate

For the Respondent/s : Mr. A. K. Choudhary, A.A.G.-13

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-04-2015

The appellant is working as an Executive Engineer in the Public Health Engineering Department of the State of Bihar.



Departmental proceedings were initiated against him by issuing charge memo dated 06.12.2013. The allegations are mostly about possession of disproportionate assets, by the appellant. He filed CWJC No.19935 of 2014 challenging the charge memo and initiation of departmental proceedings. The first ground urged by the appellant was that the charges were not approved by the disciplinary authority. The second ground was that there does not exist any material or basis for the charges.

The writ petition was opposed by the respondents and the learned Single Judge dismissed the writ petition through order dated 30.01.2015. Hence, this appeal.

Heard Sri T. N. Maiteen, learned senior counsel for the appellant and Sri A. K. Choudhary, learned Additional Advocate General-13, for the respondents.

One of the grounds urged by the appellant is that the charge memo was not approved by the disciplinary authority. It would have been possible for this Court, to examine the matter if only the appellant furnished the particulars of the appointing authority and the disciplinary authority, based upon the service Rules that are applicable to him. Except taking a plea and requiring the respondents to answer that, the appellant does not make any endeavour in that behalf. The charge memo was issued by the



disciplinary authority, who for all practical purposes is the Secretary of the Department. In other words, the charge memo is issued by the Government. It is only when the appellant is able to show that the disciplinary authority is other than the Government that we would have appreciated the contention. At any rate, this aspect can be agitated in the proceedings, in case any punishment is imposed upon the appellant.

We find it difficult to accept the second contention also. The charge memo contains not only the gist of charges, but also factual basis therefor. The law does not require that there must exist a particular category of material, to constitute the basis for a charge. Ultimately, it is for the department to prove the charges. Therefore, we are not inclined to accept their contention.

Learned senior counsel for the appellant submits that though 18 months have elapsed ever since the charge memo was issued, no progress, whatever has taken place in the proceedings.

For the foregoing reasons, we dismiss the appeal, but direct the respondent- authority to conclude the proceedings within a period of three months from today. The appellant shall extend his cooperation and, in case it is not forthcoming, it shall be open to the respondent authority to proceed in accordance with law. If for any reason, the proceedings are not concluded within three months,

despite the co-operation from the appellant, the respondent- authority shall consider the feasibility of revoking the suspension of the appellant, if necessary, by transferring to other place.

Interlocutory applications, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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