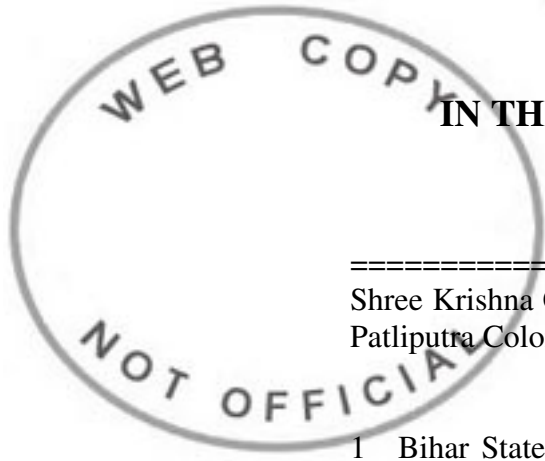




IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No 218 of 2009

IN

Civil Writ Jurisdiction Case No 2631 of 2002

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Shree Krishna Chaudhary, son of late Ram Builas Chaudhary, resident of Mohall – Patliputra Colony, PS – Patliputra Colony, District - Patna

.... Appellant/s

Versus

- 1 Bihar State Road Transport Corporation through its Administrator, Pariwahan Bhawan, Beer Chand Patel Path, Patna
- 2 Secretary. Transport Department, Bihar, Patna, Technical Secretariat, Bihar, Patna

.... Respondent/s

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For the Appellant/s : Mr Rajeev Roy, Advocate

For the Respondent/s : Mr P K Verma, Sr Advocate with
M/s Nand Kr Singh & Arvind Kr, Advocates

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH

And

HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 14-07-2015

The present intra-Court Appeal has been filed by the appellant, who was the writ petitioner, being aggrieved by judgment and order dated 15.01.2009 passed in CWJC No 2631 of 2002.

2 We have heard the learned counsel for the appellant and learned counsel for the Bihar State Road Transport Corporation (For brevity, *the Corporation*). We have perused the judgment of the learned Single Judge and we find no ground to interfere.



3 Learned counsel for the appellant submits that the Enquiry Officer was an Officer with lower pay and lower in rank than the writ petitioner. That vitiates the enquiry. Reliance was placed on the case of *Brij Bihari Singh –Versus- Bihar State Financial Corporation & Others, 1996 (1) PLJR 705*. We are not impressed. It is not in dispute that the Enquiry Officer was not an Officer of the Corporation. He was Officer on Special Duty deputed to the Corporation. This objection was never taken at any stage by the writ petitioner before any authority. How this has prejudiced the writ petitioner and in what manner is not stated? We are, therefore, in agreement to the learned Single Judge that this could not vitiate the enquiry in any manner.

4 It is then submitted that there were large number of documents that were produced in course of enquiry which were not duly proved or their contents were not duly proved. To our question that did the writ petitioner, any point of time, dispute any of those documents, which were all official records, the answer was it is apparently not. It is, thus, clear that where a party does not dispute the document or the contents thereof, it is deemed to be admitted and any fact that is admitted is not required to be proved. Thus, on this count again, we cannot hold that the enquiry stood vitiated.

5 Next, it was urged that the Managing Director was not produced for cross-examination. For what purpose, the Managing

Director was required to be cross-examined is not clear? The charges are based on matters which were matters on record. They were based on official documents, file notings and orders. Neither the Managing Director, nor the Corporation, nor the writ petitioner disputed any of those documents. On behalf of appellant, it was submitted that it was the Managing Director who had issued the orders of regularization and, as such, he was required to be produced for cross-examination. We are not impressed. The document being not in dispute at any stage nor the Corporation disputing that it was issued by the Managing Director, there was no sense for calling the Managing Director to be examined except to embarrass. Thus, on this count also, we hold that the enquiry is not vitiated.

6 It is then lastly urged that the punishment is grossly disproportionate. The writ petitioner-appellant was dismissed five months prior to his superannuation.

7 We do not think that the punishment is such that would shock the conscience of the Court. We agree with the learned Single Judge in that regard as well that no case is made for interference.

8 Accordingly, this appeal is dismissed.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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