

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12713 of 2015

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Om Prakash Roy, Son of Late Shital Paswan, Retd. Executive Engineer,
resident of Village- Topkhana Bazar (Katghar), P.O- Munger, P.S.-
Munger, District- Munger, Pin-811201.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Minor Water Resources Department, Government of Bihar,
2. The Departmental Inquiry Commissioner, General Administration Department, Government of Bihar, Old Secretariat, Patna.
3. The Secretary, Water Resources Department-cum-Addl. Departmental Inquiry Commissioner, Bihar, Patna.
4. The Executive Engineer, Minor Irrigation Division, Madhepura, Govt. of Bihar at Madhepura.
5. Addl. Secretary Minor Water Resources Department, Government of Bihar
6. Principal Secretary, General Administration Department, Government of Bihar Old Secretariat.

.... Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Kaushal Kumar Jha, AAG-14

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 18-08-2015

Heard learned counsel for the parties.

2. Having regard to the solitary prayer of the petitioner in this writ application confined to quashing of an order dated 27.03.2015 initiating a proceeding under Rule 43(b) of Bihar Pension Rules (hereinafter referred to as "the Rules"), this Court must hold the present writ application to be premature.

3. Let it be noted that the petitioner wants to contend that such initiation of the proceeding against the petitioner under Rule 43(b) of the Rules is bad on the strength of the impugned resolution dated 27.03.2015, as forwarded to him by memo no. 273 dated 07.04.2015,



and because the same relates to his period of functioning at Madhepura where he was working as an Executive Engineer in the year 2007-08. The petitioner, in this regard, has come out to say that he, having been allowed to retire on 31.07.2014, has been subjected to a proceeding under Rule 43(b) of the Rules by the impugned order with regard to an event which had taken place some seven years back. In this regard, he also relies on an order passed by the Departmental Inquiry Commissioner dated 15.04.2015.

4. In the considered opinion of this Court, when the petitioner himself has not enclosed the complete documents particularly Prapatra-K, being part of the Government resolution 27.03.2015, he himself has purposely sought to suppress the relevant material on the basis of which it could have been decided by this Court as to whether the allegation against the petitioner in the contemplated proceeding under Rule 43(b) of the Rules is confined only to his place of posting at Madhepura or for also some other places of posting prior to his retirement in the month of July, 2014. The order passed by the Departmental Inquiry Commissioner dated 07.04.2015 also is only an interim order in a departmental proceeding of other petitioner and, therefore, if the petitioner can still satisfy the competent authority including inquiry officer with regard to the proceeding initiated against him to be not maintainable on account of embargo of the period of four years under Rule 43(b) of the Rules, while filing his written statement of defence in respect of the charges included in Prapatra 'Ka', this Court

hopes and believes that this aspect will be also looked into by the inquiry officer and also by the competent disciplinary authority in accordance with law.

5. With the aforementioned observation and direction, this writ application is disposed of.

(Mihir Kumar Jha, J)

Sujit/-

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