

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3529 of 2014

In

Civil Writ Jurisdiction Case No. 2794 of 2014

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Jai Kishore Singh, son of Late Rameshwar Singh, resident of village- Mahavir Tola, P.S. + District- Arrah; presently posted as Assistant Engineer, Planning and Monitoring Division, Dihri, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Director, Investigation Project Preparation Directorate, Patna-cum-Conducting Officer, Anishabad, Patna.

.... Opposite party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh

For the Opp.Party/s : Mr. Shashi Shekher Pd. Sinha, AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 25-03-2015 Heard the parties.

The present M.J.C. application has been filed on behalf of the petitioner seeking restoration of C.W.J.C. No. 2794 of 2014, which stood dismissed for want of prosecution by an order dated 04.07.2014.

In the aforesaid C.W.J.C. No. 2794 of 2014, the petitioner had assailed the validity and correctness of the appellate order dated 26.11.2012 (Annexure-1 to the writ petition) passed by the respondent no.2 of the writ petition, whereby the appeal preferred by the petitioner in terms of Rules 23 and 24 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (In short 'CCA Rules, 2005) against the order of punishment passed by the disciplinary authority was rejected. An order passed by the appellate authority under the provisions of CCA Rules,

2005 is revisable in terms of Rules 28 of the CCA Rules, 2005, but it appears that the petitioner has not exhausted the statutory remedy of revision and had approached this Court in the aforesaid C.W.J.C. No. 2754 of 2014 assailing the validity and correctness of the original order as also the appellate order.

In the factual matrix noticed above, this Court is of the opinion that instead of restoring C.W.J.C. No. 2794 of 2014 to its original file, the interest justice shall be sub-served if the petitioner is granted liberty to file a revision application before the prescribed revisional authority under CCA Rules, 2005 or alternatively he may file a fresh writ petition in the same subject matter after bringing on record all the subsequent developments, which might have taken place during the interregnum period. It is ordered accordingly.

If such a revision application is filed within a period of four weeks from today or any fresh writ petition is filed on behalf of the petitioner in the same subject matter after bringing on record all subsequent development within the same period of time, then the same shall be considered and decided on its own merit without being prejudiced/ influenced by the order dated 04.07.2014 passed in C.W.J.C. No. 2754 of 2014 and that shall not be dismissed on the ground of the principles of res judicata.

The present application stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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