

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.931 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 21446 of 2012

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Pramod Chandra Mannu S/o Late Basudeo Prasad Resident of Village Puranahiya,
P.S. Ghorasahan, District East Champaran.

.... Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Bihar Public Service Commission through its Chairman, Bailey Road, Patna (Bihar).
3. The Chairman, Bihar Public Service Commission, Bailey Road, Patna (Bihar).
4. The Commissioner-cum-Secretary, Road Construction Department, Bihar, Patna.
5. The Engineer-in-chief cum Additional Commissioner cum Special Secretary, Road Construction Department, Bihar, Patna.
6. The Deputy Secretary cum Chief Vigilance Officer, Road Construction Department, Bihar, Patna.
7. The Commissioner cum Secretary, Rural Development Department, Bihar, Patna.
8. The Secretary, Rural Engineering Organization, Bihar, Patna.
9. The Commissioner cum Secretary, Cabinet Vigilance Department, Government of Bihar, Patna.
10. The Under Secretary, Cabinet Vigilance Department, Government of Bihar, Patna.
11. The Conducting Officer cum Chief Engineer, Rural Engineering Organization, Bihar, Patna.
12. The Under Secretary, Road Construction Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant	:	Mr. Mrigank Mauli, Mr. Kumar Ravish and Mr. Sanket, Advocates
For the Respondent State	:	Mr. Parijat Saurav, AC to AAG 10
For the BPSC	:	Mr. Gyanendra Kumar Shukla, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 21-10-2016

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 13.02.2014 whereby

the order of punishment dated 17.03.2011, wherein the punishment of stoppage of two increments without cumulative effect was not interfered with though the order of withholding the salary except to the extent of subsistence allowance already paid was set aside.

The argument of learned counsel for the appellant is that there were six charges levelled against the appellant in the charge sheet dated 01.07.2006. The Enquiry Officer in his report dated 13.03.2008, has returned a finding of proof of charge nos. 1 and 2 and partial proof of charge no. 3. It is contended that such charges are not proved in view of the stand of the Department before the Enquiry Officer. Thus, there is no evidence for imposition of penalty of stoppage of two increments without cumulative effect.

We do not find any merit in the argument raised. The charge no. 1 is that instead of laying of 1 ft. PCC slab, the appellant raised a slab of 3" only and thus caused a loss of Rs. 16,557/- whereas charge no. 2 pertains to that without quotation the appellant has used materials for construction and sanctioned the bills for payment without his financial competence. The charge no. 3 is that he has made payment of Rs. 13,01,200/- by bifurcating the same in three parts so as to bring within his competence and, therefore, the appellant has misconducted in granting sanction for payment of the amounts. The Enquiry Officer has found charge nos. 1 and 2 to be proved



completely whereas charge no. 3 partly. It is on the basis of such finding of the Enquiry Officer, a show cause notice was given to the appellant and after considering the reply, the punishment of stoppage of two increments without cumulative effect and also withholding the salary over and above the subsistence allowance already paid was passed on 17.03.2011.

The learned Single Bench has not found any error in the first part of punishment i.e., withholding of increment without cumulative effect but set aside the second part of the order of withholding the salary beyond the subsistence allowance.

Learned counsel for the appellant has vehemently argued that the order of punishment is based upon no evidence inasmuch as the Department has admitted before the Enquiry Officer that the appellant has not carried any cement work.

We do not find that such an inference is permissible on the reading of the entire enquiry report. The Enquiry Officer has given a categorical finding (page 116) that charge no. 1 is proved. The Enquiry Officer has considered the stand of the Department as also of the delinquent to return such finding. Similarly, in respect of charge no. 2, a categorical finding is also of proof of charge (page-118) whereas in respect of charge no. 3, the finding recorded is that the appellant has bifurcated the estimates but in respect of approval of

pro-section and cross-section, the stand of the delinquent merits acceptance.

In view of a categorical findings recorded by the Enquiry Officer considering the defence and the stand of the Department, we do not find that the assertion of the appellant that there is no evidence returning of proof of charge nos. 1 and 2 and charge no. 3 partly merits consideration. Such finding of the Enquiry Officer cannot be made the subject matter of challenge before this Court in exercise of power of judicial review of this Court. This Court in exercise of power of judicial review examines the decision making process and not the decision itself.

Consequently, we do not find any merit in the present Letters Patent Appeal. The same is thus dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Anjani/P.Kumar

AFR/NAFR	AFR
CAV DATE	N/A
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