

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1279 of 2011

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Manju Nidhi, wife of late Ghanshyam Nidhi (original petitioner), resident of
Village- Bithar, P.S. - Harlakhi, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Member, Board of Revenue, Bihar, Patna.
3. The Secretary, Personnel and Administrative Reforms Department, Patna, Bihar.
4. The Joint Secretary, Personnel and Administrative Reforms Department, Patna, Bihar.
5. The Deputy Secretary, Personnel and Administrative Reforms Department, Patna, Bihar.
6. The Under Secretary, Personnel and Administrative Reforms Department, Patna, Bihar.
7. The Secretary, Water Resources Department, Government of Bihar, Patna.
8. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
9. The Under Secretary, Water Resources Department, Government of Bihar, Patna.
10. The Chief Engineer, Water Resources Department, Valmikinagar, West Champaran.
11. The Deputy Secretary, Bihar Human Right Commission –cum- Enquiry Officer, Bailey Road, Patna, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma, Advocate

For the Respondent/s : Mr. Samir Kumar, AC to SC-16

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 18-10-2016

Re: I.A.8171 of 2016:

This interlocutory application has been filed praying for substitution of the sole petitioner Ghanshyam Nidhi who has deceased on 14.6.2014, by his widow namely, Manju Nidhi whose details are mentioned in paragraph 3 of this interlocutory application.



Having heard leaned counsel for the parties and considering the circumstances the interlocutory application is allowed. Let the name of the deceased petitioner Ghanshayam Nidhi be expunged from the present proceeding and be substituted by his widow, namely, Manju Nidhi whose details are mentioned in paragraph 3 of the interlocutory application.

I.A. No.8171 of 2016 is allowed.

Re: CWJC No.1279 of 2011:

Heard the parties.

The petitioner is aggrieved by the order dated 20.07.2010 passed by the Member, Board of Revenue, Bihar, Patna in Service Appeal No.11 of 2010, whereby he has upheld the order dated 5.1.2010 passed by the Disciplinary Authority imposing penalty of stoppage of three increments without cumulative effect and treating the period of suspension as an unauthorized absence for which no subsistence allowance was paid to the deceased petitioner on grounds that he never bothered to join the headquarters so fixed under the suspension order.

The writ petitioner has deceased and is substituted by his widow who is pursuing the remedy on behalf of her deceased husband.

Facts of the case in brief is that a transfer order was



issued in favour of the petitioner along with some others on 29.6.2008, whereby the petitioner was directed to join the Department of Industries (Cane), Government of Bihar, Patna. The petitioner failed to comply with the transfer order resulting in initiation of disciplinary proceeding which has resulted in the impugned penalty of withholding of three increments without cumulative effect. The petitioner has suffered punishment but has chosen to appeal before the Member, Board of Revenue in Service Appeal No.11 of 2010 which has been dismissed, hence this writ petition.

There is no dispute that the petitioner failed to comply with the transfer order resulting in issuance of suspension order dated 19.5.2009 fixing his headquarter in the Department of Industries (Cane), Government of Bihar, Patna and a disciplinary proceeding was initiated upon service of charge-sheet. However, no explanation was submitted by the deceased petitioner who neither complied with the order of suspension to join the headquarter. The disciplinary proceeding upheld the guilt of the petitioner in not joining the place of transfer. The enquiry report was served on the petitioner, who failed to respond to the enquiry report as well.

The facts aforementioned confirms two things, namely:

- (a) The petitioner failed to join the place of transfer.

Meaning thereby he disobeyed the order for which he was imposed penalty of withholding of three increments without cumulative effect; and

- (b) He failed to join at the headquarter as per the suspension order. Meaning thereby there was disobedience to the said order leading to a service break and which has been stipulated in the order of punishment treating it to be a break in service and for which the petitioner has been also denied, the subsistence allowance.

Having heard learned counsel for the parties, considering the undisputed attending circumstances, in my opinion, the petitioner has been let off with the minimum damage and considering the nature of penalty, no reason is found to interfere with the orders under challenge.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.102016
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