

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.448 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 13712 of 2012

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Nand Kishore Prasad, Son of Late Muni Lal, Resident of Mohalla - Dr.
Dharnidhar Road, P.S. : - Aurangabad, in the Town and District of
Aurangabad (Bihar)

.... Appellant/s

Versus

1. The State of Bihar
2. The Secretary & Commissioner, Govt. of Bihar, Department of
Water Resources, Bihar, Patna
3. The Special Secretary, Govt. of Bihar, Department of Water
Resources, Bihar, Patna
4. The Under Secretary-cum-Incharge Officer, Grievances Redressal
Cell, Department of Water Resources, Bihar, Patna
5. The Deputy Secretary (Internal Vigilance) Wing to Govt. of Bihar,
Department of Water Resources, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Siya Ram Shahi, Advocate.
Mr. Mrigendra Kumar, Advocate.
Ms. Namrata Singh, Advocate.

For the Respondent/s : Mr. Kameshwar Kumar, G.P. 17
Mr. S.K. Ranjan, A.C. to S.C. 17

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 11-08-2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 25th of September, 2012 in C.W.J.C. No. 13712 of 2012, whereby the challenge to the office order dated 20th of March, 2001 inflicting punishment upon the appellant remained unsuccessful.

2. On 20th of March, 2001 the appellant was imposed the following three punishments:

- (i). Censure be recorded in the A.C.R. for the year 1991-92.
- (ii). No promotion for the period of seven years.
- (iii). Stoppage of three increments without cumulative effect.

3. The said order was passed after a show-cause notice was served upon the appellant (Annexure-1) which was served after conducting an investigation. The appellant submitted his reply and thereafter the impugned order was passed.

4. Learned counsel for the appellant argued that the order of punishment is illegal and in violation of the principles of natural justice inasmuch as the reply submitted by the appellant has



not been considered, as is required under Rule 55-A of Civil Services (Classification, Control and Appeal) Rules, 1930 (hereinafter referred to as “the Rules). Reliance was placed upon the Division Bench judgment of this Court reported as Dr. Rabindra Nath Singh Vs. The State of Bihar and others, 1983 PLJR 92, Shri Bhageshwar Jha Vs. The State of Bihar & others, 1993(1) PLJR 585 and the order passed in the case of a co-delinquent Upendra Kumar Tiwary on 21.10.2008 in C.W.J.C. No. 807 of 2002.

5. The appellant contends that such order was never communicated to him and, therefore, it cannot be said that there is delayed challenge to the said order before the Writ Court.

6. We have heard learned counsel for the parties and find that the order dated 20th of March, 2001 is liable to be set aside for the reason that it does not disclose any reason as to why the explanation submitted by the appellant has not been considered satisfactory. Though the order of punishment is that of imposition of minor penalty but in terms of Rule 55-A of the Rules, the punishment can be imposed only after considering the reply filed by the employee. Since there is no reference to the reply submitted by the appellant, we find that such order does not meet the principles of natural justice.

7. Consequently, we deem it appropriate to allow the appeal, set aside the order passed by the learned Single Bench and the

order dated 20th of March, 2001. The matter is remitted back to the competent authority to pass a fresh order after considering the reply filed by the appellant.

(Hemant Gupta, J)

Ahsanuddin Amanullah, J I agree.

(Ahsanuddin Amanullah, J)

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