

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23486 of 2013

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Niranjan Prasad Singh Son Of Late Shatrughan Prasad Singh Resident Of Village -
Jamuniya, P.O. - Saddiha, P.S. - Simri Bakhtiyarpur, Dist. - Saharsa

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Water Resources Deptt.,
Government Of Bihar, Patna
2. The Secretary, Water Resources Deptt., Govt. Of Bihar, Patna
3. The Director, Revenue Administration , Water Resources Deptt., Bihar, Patna
4. The Chief Engineer, Water Resources Deptt. Birpur, Dist. - Supaul
5. The Superintending Engineer, Canal Circle, Saharsa
6. The Executive Engineer, Irrigation Division, Saharsa
7. The Executive Engineer, Tirhur Nahar Pramandal, Bettiah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar Singh Vikram, Adv.
Mr. Hem Shankar Singh, Adv.

For the Respondent/s : Mr. Satyendra Rai, AC to SC-30

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-05-2016

Heard learned counsel for the petitioner and counsel
for the State.

In this case, the petitioner is challenging the order
dated 18.5.2001 (Annexure-6) passed by the Under Secretary, Water
Resources Department, whereby and whereunder, he has imposed two
punishments, firstly the petitioner would not be entitled for the salary
for the period 6.5.1994 to 25.10.1996 treating the same as 'No work
No Pay' and secondly entry of censure in the service book of the
petitioner for the period 1994-95.



In the present case, the petitioner is a retired employee of Water Resources Department. He was posted at Sasaram, from there vide order dated 2.5.1994 he was transferred from Sasaram to Daltonganj (Ranchi) but, he did not join. Later on, his order of transfer has been kept in abeyance vide letter no. 624 dated 3.5.1994. Later on, charge-sheet was served upon the petitioner mentioning therein about eight charges framed against him. The petitioner was put to departmental proceeding and in the departmental proceeding, the Enquiry Officer acquitted the petitioner from all charges. The Disciplinary Authority considered the findings recorded by the Enquiry Officer and was agreed with the same, served second show-cause notice giving his tentative findings on disagreement. The petitioner filed his reply to the second show-cause notice served upon him and after that the Disciplinary Authority passed the impugned order inflicting two punishments as mentioned above. Against this order, the petitioner did not file any appeal but the appeal was filed by Raj Patrit Mahasang. The appeal was considered by the appellate authority. The appellate authority did not find any merit in the appeal and the same was also rejected. Even the revision filed by the petitioner was not accepted. Now the petitioner is challenging the order impugned.

Learned counsel for the petitioner submits that the



Enquiry Officer has found none of the charges proved against the petitioner. He has also filed reply to the show-cause but, the Disciplinary Authority has not dealt with the objection that he has raised after receipt of the second show-cause notice and, by a cryptic order, rejected the second show-cause filed by the petitioner and has submitted that the impugned order suffers from non-application of mind.

The petitioner has not filed any appeal against the impugned order as the Union cannot be said to a person aggrieved to file an appeal but the revision filed by the petitioner was not accepted. This Court must quash the order of Disciplinary Authority and remand back the matter. The petitioner has already retired. Learned counsel for the petitioner has submitted that in a similar circumstances, those who were transferred not joined that place, the Minister of the Department took view to re-examine the matter and if it is found, their transfer is against the rule and regulation of the Department, the order of transfer would be recalled and so much so if the order of suspension has also been passed against the rule and regulation, that would also be withdrawn and the person would be paid salary for the period of his transfer.

Be that as it may, this Court would not interfere with the impugned order. Let the Principal Secretary consider the case of

the petitioner in the light of the letter no. 93 dated 18.1.1995 and pass a reasoned order within a period of three months from the date of receipt/production of a copy of this order.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.5.2016
Transmission Date	