

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11673 of 2008

Nandesh Kumar, son of Nagesh Pd., resident of Mohalla P & T Colony, C/o Suraj Prakash, Budha Colony, Patna.

.... Petitioner.

Versus

1. The State of Bihar
2. Joint Secretary, Minor Irrigation, Government of Bihar, Patna.
3. Chief Engineer, Minor Irrigation, Government of Bihar, Patna.
4. Under Secretary, Minor Irrigation, Government of Bihar, Patna.

.... Respondents.

Appearance :

For the Petitioner/s : Mr. AJIT KUMAR
Mr. Shailendra Kumar

For the Respondent/s : Mr. (AAG2)

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 08-02-2016

Heard learned counsel for the petitioner and the respondents.

2. The petitioner was working as typist in the department of Minor Irrigation, Government of Bihar. He seeks quashing of Memo no. 2497 dated 09.05.2008 issued under the signature of Joint Secretary, Minor Irrigation Department, Government of Bihar terminating his service.

3. The facts of the case in short is as follows:

The petitioner was appointed as a typist in the Minor Irrigation Department in the year 1998. Later on, there was some suspicion, whether the letter dated 20.03.1998, bearing Memo no.



10/Pari-132/97 Ka 21/Patna, was in fact issued from the Personnel and Administrative Reforms Department. The letters of Personnel and Administrative Reforms Department, dated 28.05.2007, 07.06.2007 and 26.07.2007, cast some doubts regarding genuineness of letter dated 20.03.1998. The petitioner was accordingly departmentally proceeded. The conducting officer recorded a finding of guilt. After consideration of the enquiry report and the show-cause of the petitioner, the Minor Irrigation Department vide its impugned letter, dated 09.05.2008, dismissed the petitioner from service.

4. The petitioner submits that after conclusion of the departmental enquiry, he is now in possession of documents received through Right to Information Act, which would establish that the letter, dated 20.03.1998 issued from the Personnel and Administrative Reforms Department, the confirmations of which was sought by the Minor Irrigation Department was genuine. The documents and the correspondence have been brought on record by rejoinder to the counter affidavit as contained in Annexures- 27 Series.

5. If the contention of the petitioner that letter, dated 20.03.1998 was in fact issued by the Personnel and Administrative Reforms Department, Patna, is true, the findings recorded in the enquiry report need to be reviewed by the appropriate authority.

6. In view of the above, the matter is remitted to the

Principal Secretary/Secretary, Minor Irrigation Department, Patna for consideration of the matter. It would be open for the petitioner to place the documents received through RTI applications in support of his claim that the letter in question was genuine. In case, such representation is filed before the Principal Secretary/Secretary, Minor Irrigation Department, the same would be duly considered within a period of three months from the date of its presentation after giving a personal hearing to the petitioner in the facts and circumstances of the case.

7. With the aforesaid direction, this application stands disposed of.

8. The impugned order of dismissal would be subject to fresh adjudication of the matter by the Principal Secretary/Secretary, Minor Irrigation Department, Patna.

(Samarendra Pratap Singh, J.)

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