

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5304 of 2013

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Satya Narayan Yadav, Working As Conductor, Bihar State Road Transport Corporation, Darbhanga Son Of Late Ramphal Yadav Resident Of Village Andama (Nanaura), P.O. Koyala Asthan, P.S. Keoti, District Darbhanga

.... Petitioner/s

Versus

1. The Bihar State Road Transport Corporation Through Its Administrator, Bihar State Road Transport Corporation Called B.S.R.T.C., Bihar, Patna
2. The Administrator, Bihar State Road Transport Corporation, Parivahan Bhawan, Birchand Patel Marg, Bihar, Patna
3. The Chief Administrator, Bihar State Road Transport Corporation, Parivahan Bhawan, Birchand Patel Marg, Bihar, Patna
4. The Divisional Manager (D.M.), Bihar State Road Transport Corporation, Darbhanga Division, Darbhanga
5. The Depot Superintendent (D.S.), Bihar State Road Transport Corporation, Darbhanga Division, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ugranath Mallik , Adv.

For the Respondent/s : Mr. P.K. Verma

For the BSRTC : Mr. Mukul Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 23-02-2016

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

In this case, the petitioner is challenging the order dated 23.11.2011 by which the Bihar State Road Transport Corporation has inflicted punishment of warning wherein it has been mentioned that if

the act is repeated, the petitioner will be dealt with severe punishment and the petitioner will not be entitled for any salary save and except subsistence allowance during period of suspension.

Learned counsel for the petitioner has drawn attention of this Court towards findings recorded by the Enquiry Officer where the Enquiry Officer, after due deliberation of the fact, has recorded that the Management could not prove any charge against the petitioner and submitted a report in favour of the petitioner. It appears that the Administrator has wrongly recorded that the charge has partly been proved whereas no such finding has been recorded by the Enquiry Officer against the petitioner. It appears that the Administrator has not gone through the enquiry report and wrongly recorded that the charge has been proved against him partly. If the Management is disagreed with the findings of the Enquiry Report, in such circumstance, in terms of the judgment passed by the Apex Court in the case of ***Punjab National Bank & Ors. Vs. Kunj Behari Misra***, reported in (1998)7 SCC 84, it is to ask an explanation with tentative finding of disagreement from the delinquent concerned. If the explanation does not satisfy, the management will pass order in terms of law. The proper process has not been adopted by the Management, Bihar State Road Transport Corporation and wrongly recorded that the charge has partly been proved.

In such view of the matter, the order dated 23.11.2011 passed by the Administrator is hereby quashed and the matter is remitted back to the Corporation to take action in accordance with law within a period of three months from the date of receipt of this order.

(Shivaji Pandey, J)

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