

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1905 of 2012

IN

Civil Writ Jurisdiction Case No. 4464 of 2008

- =====
1. The State of Bihar
 2. The Secretary cum Commissioner, Road Construction Department, Bihar, Patna
 3. The Secretary, Personnel & Administrative Reforms Department (Now General Administrative Department), Bihar, Patna
 4. The Joint Secretary, Road Construction Department, Bihar, Patna
 5. The Chief Engineer (Mechanical), Road Construction Department, Bihar, Patna
 6. The Departmental Enquiry Commissioner, Personnel & Administrative Reforms Department (Now General Administrative Department), Bihar, Patna
 7. The Deputy Secretary cum Chief Vigilance Officer, Road Construction Department, Bihar, Patna

.... Appellant/s

Versus

Shyam Narayan Singh, S/O Late Natun Singh, Resident of 288, Anugrahपुरi Colony, P.S. Kotho (Imamganj), District- Gaya

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. P.K. Verma, AAG-5
Dr. Mankeshwar Tiwari, Advocate

For the Respondent/s : Mr. Mukesh Kr. Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 19-04-2016

Heard learned counsel for the parties.

The present intra-court appeal has been filed by the State against the order dated 01.08.2011, passed in C.W.J.C. No. 4464 of 2008. The writ proceedings arise out of the disciplinary proceedings as taken against the writ petitioner who was a retired



Superintending Engineer in the Road Construction Department. In a departmental proceedings, he has been visited with the punishment of reduction of pensionary benefits by 50%. The writ Court has remanded the matter to the disciplinary authority for reconsideration of quantum of punishment restricting him to be not more than 20%. State is aggrieved by that.

We have gone through the records and, in our view, it is not a case for interference in appeal. It is to be noted that the Chief Engineer Balmiki Singh and another Superintending Engineer Ram Ashray were also facing proceedings along with the writ petitioner-respondent. The charge was that they had wrongly and illegally recruited large number of persons. While Balmiki Singh, the Chief Engineer died, the proceedings against him abated. So far as Ram Ashray is concerned, the proceedings against him were dropped, apparently, pursuant to some orders of this Court passed in another writ petition. That left the writ petitioner-respondent to face the disciplinary proceedings. The enquiry officer in his report has categorically noticed that so far as the recruitment is concerned, it may have been irregular but it

was not illegal. Departmental circulars justify recruitment for temporary periods in view of exigency of work if they were to be completed within fixed time. However, the enquiry officer found that their continuance beyond three months was wrong. While giving this finding he had also taken note of the fact that the writ petitioner-respondent herein, being a junior officer, was under pressure from superior to allow such persons to continue. This becomes very important. We may remember that the writ petitioner-respondent was only a Superintending Engineer and if senior officers like Chief Engineer were issuing correspondences to him directing him to allow people to continue, then it cannot be expected that the Superintending Engineer would ignore such orders. It is considering these facts that the recruitment was irregular and continuance of such recruited persons was irregular. Learned Single Judge held that the extreme punishment of 50% reduction in pensionary benefits was not warranted. According to us, the learned Single Judge did not commit any error by remanding the matter to the disciplinary authority to reconsider the matter of punishment and while doing so limiting maximum



punishment that could be awarded be restricted to 20% of pensionary benefits.

We thus find no merit in this appeal.

It is accordingly, dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	