

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.255 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 3505 of 1998

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Nawal Kishore Sharma, Son of Sri Ram Chandra Sharm, Resident of Village Dal Bathua, P.S. Pusa, District Samastipur.

.... Appellant/s

Versus

1. The Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Bailey Road, Patna
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar, Advocate.

For the Respondent/s : Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date: 21-06-2016

Heard learned counsel for the parties.

The present intra-court appeal has been filed under Clause X of the Letters Patent of Patna High Court against the judgment dated 04.07.2013 passed by the learned Single Bench by which CWJC No. 3505 of 1998 filed by the appellant has been dismissed.

The appellant, while working as an Assistant Store



Keeper, M.R.T. Division, Samastipur in the year 1978, contested and was elected as a Member of the Executive Committee of Gram Panchayat and was also nominated as Up-Mukhiya. Thereafter, upon the death of the Mukhiya, the appellant was nominated as Mukhiya by the Executive Committee and worked on that post till 09.06.1994.

The Bihar State Electricity Board, as it then was, (hereinafter referred to as the “Board”), issued show cause to the appellant as to how he was holding the post of Mukhiya, which amounts to misconduct under the Certified Standing Orders of the Board. The appellant, upon receipt of the show cause, submitted his resignation from the post of Mukhiya and gave such information to the Board with a request to acquit him of charges. The appellant, however, was subjected to departmental inquiry and after submission of the inquiry report holding him guilty and consideration of his show cause and second show cause, he was dismissed from service by order dated 23.12.1995. The same was challenged before this Court in CWJC No. 5417 of 1996, which was disposed off by order dated 18.11.1997 directing the Chairman of the Board to decide the appeal, which had already been filed by the appellant.

The Chairman dismissed the appeal on 28.03.1998, which was impugned in CWJC No. 3505 of 1998. The order dated 04.07.2013 dismissing the writ petition has been assailed in the present appeal.



Learned counsel for the appellant submits that the departmental proceeding has been conducted in violation of the rules of natural justice and also not in accordance with law and that the charges have not been proved beyond reasonable doubt. He submits that the reply to the second show cause by the appellant has also not been considered and that he was not given opportunity of personal hearing. He further submits that Rule 13 of the Certified Standing Orders of the Board permits an employee of the Board to undertake honorary work of a social or charitable nature or occasional work of literary, artistic or scientific character subject to condition that it does not affect his official duty adversely. Learned counsel submits that the learned Single Bench has not considered the factual or legal aspects in their proper perspective.

Learned counsel for the Board submits that the decision of the Board dismissing the appellant from service is based on admitted facts and cogent reasons and also in accordance with Standing Orders of the Board prohibiting such conduct. Learned counsel submits that as per the Standing Orders of the Board under the Industrial Employment (Standing Orders) Act, 1946, Clause-20 (iii) thereof specifically stipulates that “No workman shall canvass or otherwise interfere or use his influence in connection with or take part in an election to any Legislature or Local Body or Gram Panchayat.” It is, thus, submitted



that the appellant cannot take help of Rule 13 of the Standing Orders relating to performing honorary work of a social or charitable nature. It is submitted that the appellant not having denied the fact that without any information, much less any permission, he had contested the election of the Gram Panchayat and also held the office of the Up-Mukhiya and Mukhiya and only upon show cause issued to him, had resigned, which would not improve the case of the appellant or prevent any disciplinary action against him.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court does not find any merit in the appeal. Once the fact of having contested the election of Gram Panchayat and having held the office of the Up-Mukhiya and Mukhiya, while in service of the Board, in the light of specific bar to such action, as per Clause 20(iii) of the Certified Standing Orders, the appellant was clearly guilty of misconduct. Thus, the disciplinary action against him by the Board cannot be said to be arbitrary or unreasonable. Further, nothing has been shown before the Court to indicate any procedural infirmity in the departmental proceeding held against the appellant. Moreover, the order of the disciplinary authority as well as the appellate authority are sound, based on admitted facts and cogent grounds. The same have also rightly not been interfered with by the learned Single Bench.

In view of the discussions made hereinabove, we do not find any reason to interfere in the order passed by the learned Single Bench and accordingly, the appeal stands dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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