

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20923 of 2014

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Diwakar Shukla son of late Balajee Shukla, resident of mohalla Deep Nagar, Road No.5, P.S. Menhdiganj, Patna City, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Department of Energy, Government of Bihar.
3. Bihar State Hydro Electric Power Corporation Ltd. through its Chairman, Sone Bhawan, 2nd Floor, Birchand Patel Marg, Patna
4. The Chairman, Bihar State Hydroelectric Power Corporation Ltd. Patna
5. The Chief Engineer (Electrical), Bihar State Hydro Electric Power Corporation Ltd. Patna
6. The Superintending Engineer (Electrical) Bihar State Hydro Electric Power Corporation Ltd.
7. The Manager (Personal & Administration) Bihar State Hydro Electric Power Corporation Ltd. Sone Bhawan, 2nd Floor, Birchand Patel Marg, Patna
8. The Managing Director, Bihar State Hydro Electric Power Corporation Ltd. Patna
9. The Executive Engineer (Civil)-cum-Enquiry Officer, B.H.P.C. Sone Bhawan Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Bihari Tiwary, Adv.
Mr. Bijendra Prasad Sinha, Adv.
For the Respondent/s : Mr. Sheo Shankar Pd., S.C.10
For the Corporation : Mr. Chandra Bhushan Das, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-09-2016

Let the Executive Engineer-cum-Enquiry Officer be added as a party respondent during the course of the day.

Heard Mr. Brij Bihari Tiwary, learned counsel for the petitioner, learned counsel for the State and Mr. Chandra Bhushan Das learned counsel appearing for the Bihar State Hydro Electric Corporation Ltd., a State Government undertaking.

The petitioner has questioned the order of suspension served upon him bearing Memo No.1047 dated 1.8.2014 impugned at

Annexure-4 whereby for the charges mentioned in the order, the petitioner has been served with an order of suspension with a stipulation that the conducting officer would be appointed subsequently. The grievance of the petitioner is that it is simply on the basis of allegations present in the suspension order impugned at Annexure-4 and without service of chargesheet that he is allowed to remain in the state of suspension for more than two years.

A counter affidavit has been filed in the present proceedings under the signature of the Assistant Manager (Legal) and paragraph 10 of the counter affidavit mentions that the suspension order is a self contained order containing the charges and which according to the respondents is the foundation for the proceedings.

Mr. Das learned counsel for the Corporation has with reference to a letter of the petitioner present at Annexure-R/3 submitted that the delay is on the part of the petitioner and who has prayed for time for filing a reply to the charges. The developments thereafter is neither on record of the writ petition nor there is any thing enclosed with the counter affidavit to show as to what steps has been taken by the Enquiry Officer in the matter.

In the circumstances discussed and for the present this Court would direct the respondent authorities of the Bihar State Hydro Electric Power Corporation including the Executive Engineer who according to Mr. Das, has been appointed as the conducting officer to

conclude the disciplinary proceedings so initiated against the petitioner within a maximum period of six months from today. If the disciplinary proceedings is not concluded within the next six months, the disciplinary authority would take steps for revocation of the order of suspension of the petitioner which has continued for more than two years until and unless that the delay is attributable to the non-cooperation of the petitioner.

It is submitted by Mr. Tiwari learned counsel for the petitioner that although Rule 43 relied upon by the Managing Director to suspend the petitioner provides for payment of subsistence allowance at the rate of 2/3 of the substantive pay + the dearness allowance but in so far as the case of the petitioner is concerned, he is being paid only 50% of his salary which is contrary to the rules. If that be so, the petitioner would draw the attention of the disciplinary authority who would consider the grievance of the petitioner and dispose of the same in accordance with law within a period of six weeks from the date or receipt/production of a copy of this order.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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Uploading Date	17.9.16
Transmission Date	