

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.2189 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 17994 of 2012

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1. The State of Bihar
 2. The Secretary, Rural Works Department, Govt. of Bihar, Patna.
 3. The Special Secretary, Rural Works Department, Govt. of Bihar, Patna.
 4. The Superintending Engineer (Flying Squad), Rural Works Department, Govt. of Bihar, Patna.

.... Appellants

Versus

Ashok Kumar Singh, Executive Engineer, Son of Sri Ram Ekbal Singh, resident of Pachlakh, Police Station- Parsa Chapra, District- Chapra (Saran), presently posted as District Engineer, District Board, Madhepura.

.... Respondent

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Appearance :

For the Appellants : Mr. Prasoon Sinha, G.A. 2
Mr. Prabhat Kumar, A.C. to G.A. 2
For the Respondent : Mr. Binod Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 06-04-2016

Heard learned counsel for the appellants and the respondent.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 11th of January, 2013 in C.W.J.C. No. 17994 of 2012, whereby the order of punishment of stoppage of one increment (wrongly mentioned in the order as two increments) and the censure was quashed.

3. The respondent herein, the writ petitioner, invoked the writ jurisdiction of this Court for revocation of suspension vide order dated 07th of June, 2011 in pursuance of the Inspection Report dated 23rd of May, 2011 of the works being supervised by the Appellant No. 4. An Inquiry Officer was appointed to inquire into the charges. The Inquiry Officer submitted his



Inquiry Report on 05th of July, 2012 returning a finding that none of the charges stand proved. After the Inquiry Report was submitted, the file was sent to the Chief Minister for approval of revocation of suspension of the respondent. The file was returned with a direction for review in detail by a senior officer. The matter was examined and after approval of the Chief Minister, suspension of the respondent was revoked. But a show-cause notice was issued after review of the report of the Departmental Inquiry Commissioner on 7th of November, 2012. The respondent submitted his reply dated 16th of November, 2012. After verification of the irregularities, a report was submitted on 26th of November, 2012. On that basis, the disciplinary authority imposed the punishment of stoppage of one increment and censure.

4. The writ application was directed against the suspension, but through an Interlocutory Application, the writ petitioner sought to dispute the order of punishment as well.

5. The learned Single Bench observed that the case has a checkered history of biasness of the Government employee and that the respondent has been charge-sheeted on account of differences while working on the post of Executive Engineer, Rural Works Department. The Learned Single Bench interfered with the order of punishment holding that punishing authority has awarded punishment without any cogent reason, though said to be minor in nature.

6. We have heard learned counsel for the parties and find that

the order passed by the learned Single Bench cannot be sustained in law. It was not the case of the writ petitioner that there was any bias or *mala fide* and of which officer. The learned Single Bench has made out a new case for the respondent when it was not even so pleaded.

7. In exercise of power of judicial review against the order of punishment, this Court examines the decision making process and not the decision itself. There is no irregularity in the decision making process nor any irregularity or illegality has been pointed out. Though the Inquiry Officer exonerated the respondent but the matter was inquired into and the disagreement was recorded and communicated. Thereafter, an opportunity of hearing was provided to the respondent and it is thereafter, the order of punishment was passed.

8. We find that the learned Single Bench has interfered in the matter in a wholly unwarranted manner. We find that the order passed by the learned Single Bench cannot be sustained in law on any count. We allow the present Letters Patent Appeal, set aside the order passed by the learned Single Bench and dismiss the writ application with no order as to costs.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Sujit
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