

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.334 of 2014

IN

Civil Writ Jurisdiction Case No. 11188 of 2005

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1. The Bihar State Water Board, West Boring Canal Road, Patna, through its Secretary
 2. The Managing Director, Bihar State Water Board, Boring Canal Road, Patna
 3. The Secretary, Bihar State Water Board, West Boring Canal Road, Patna
 4. The Superintendent Engineer, Bihar State Water Board, Circle No. 1 and 2
 5. The Executive Engineer, Bihar State Water Board, Ganga Project, Division Nos. 1,2,4,5 Work Division, Patna and Division No. 3, Bhagalpur

.... Appellant/s

Versus

1. Meera Jha, Wife of Late Sudhir Kumar Jha, Resident of Village Pangchhia, P.S. Bihra, District Saharsa
2. Randhir Kumar, Son of Late Sudhir Kumar Jha, Resident of Village Pangchhia, P.S. Bihra, District Saharsa
3. Saroj Kumari Jha, Daughter of Late Sudhir Kumar Jha Resident of Village Pangchhia, P.S. Bihra, District Saharsa
4. Tarun Kumar Jha, Son of Late Sudhir Kumar Jha Resident of Village Pangchhia, P.S. Bihra, District Saharsa
5. Preeti Bharati, Daughter of Late Sudhir Kumar Jha Resident of Village Pangchhia, P.S. Bihra, District Saharsa
6. The State of Bihar

.... Respondent/s

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Appearance :

For the Appellants : Mr. R.S. Nath, Sr. Advocate
Mr. Indrajeet Singh, Advocate
For the Respondents : Mr. Sandeep Kumar, Advocate
Mr. Chandra Mohan Jha, Advocate
For the State : Mr. Biresh Kumar Sinha, AC to AAG-2

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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: 12-02-2016

Heard Sri Ray Shivaji Nath, learned Senior

Counsel for the appellants and Sri Sandeep Kumar for the contesting respondents.

Let it be noted that the original writ petitioner, who had challenged the order of dismissal, died during pendency of the writ petition and was substituted by his heirs who are the contesting respondents in this appeal.

With consent of the parties, this appeal has been heard for final disposal at this stage itself.

The writ petitioner-respondent was an employee of the Bihar Rajya Jal Parishad. He was proceeded against in a departmental proceeding for various charges including defalcation and temporary embezzlement. In the departmental proceedings he had demanded certain documents which were shown to him but copies thereof were not given. On the conclusion of the enquiry, the Enquiry Officer found him guilty in respect of certain charges and not guilty in respect of certain charges and submitted his report to the Disciplinary Authority. The Disciplinary Authority merely issued him a notice accepting the enquiry report and stating why he should not be punished. It is undisputed that no part of the enquiry report was either given to him or disclosed to him. The writ petitioner- respondent claiming prejudice by reason of documents and materials not being supplied to him pleaded innocence. The Disciplinary Authority considering the enquiry report and the cause shown by the writ petitioner passed the extreme punishment of dismissal from service.



This was challenged in the writ petition and as noted above, during pendency thereof, writ petitioner died and was substituted by his heirs. It may be noted here that the Disciplinary Authority had also passed certain orders for recovery of certain amount which, as a consequence of death, would abate. The learned Single Judge held that non-supply of enquiry was prejudice writ large for the reason that some of the charges had been held to be proved and some were held not to be proved. The delinquent was not disclosed any basis for the same. He was not in a position to challenge the findings of the Enquiry Officer. He was not in a position to show before the Disciplinary Authority that the Enquiry Officer had proceeded in a manner not permissible or not correct. He was denied the opportunity of defending himself both at the stage of Enquiry Officer by reason of non-supply of documents and at the stage of proceedings before the Disciplinary Authority by non-supply of the enquiry report, in fact, the enquiry report has been supplied for the first time by way of a counter affidavit filed in this Court in the writ proceedings.

For the reasons aforesaid, the learned Single Judge came to the finding that the disciplinary proceedings stood vitiated. We agree and find no reason to interfere. This appeal is, accordingly, dismissed.

Let the Board comply with the orders of the

learned Single Judge in regard to payment of death-cum-retiral dues forthwith, if not already complied with, within a period of three months.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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