

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1957 of 2011

IN

Civil Writ Jurisdiction Case No. 1105 of 2011

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1. The State of Bihar through the Chief Secretary, Bihar, Patna
 2. The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna
 3. The Principal Secretary, Finance Department, Government of Bihar, Patna
 4. The Principal Secretary, Science and Technology Department, Government of Bihar, Patna
 5. The Joint Secretary, General Administration Department, Government of Bihar, Patna
 6. The Deputy Secretary, General Administration Department, Government of Bihar, Patna
 7. The Department Enquiry Commissioner, Personnel & Administrative Reforms Department (General Administration Department), Government of Bihar, Patna

.... Appellants

Versus

Rajendra Prasad, S/O Late Ram Badan Singh, R/O Mohalla- New Alkapuri, Road No. 12, House No. 17, P.S.- Gardanibagh, P.O.- Anisabad, District- Patna

.... Respondent

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Appearance :

For the Appellant/s : Mr. Deepak Sahay Jamuar, AC to AAG-6

For the Respondent/s : Mr. Shailesh Kumar, 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: 12-02-2016

Heard learned counsel for the State and learned
counsel for the respondent-writ petitioner.

Having perused the order of the learned Single
Judge we see no reason to interfere.

The conduct of the writ petitioner and several
other officers of the State was scrutinized by the Central Bureau of



Investigation. So far as the writ petitioner is concerned, the Central Bureau of Investigation found no material for his prosecution and he was never sent up for trial, However, it recommended to the State that they could proceed against the petitioner departmentally. A departmental proceeding was initiated and the Enquiry Officer also could not find any material as against the writ petitioner, and, therefore, he submitted a report of no facts to find the writ petitioner guilty of any charge. This having been received, the matter was considered by the Disciplinary Authority who merely noticed the writ petitioner stating that he does not agree with the enquiry report and as such why the writ petitioner be not punished. No reason for disagreement was indicated at all. Upon protest and show cause being filed by the writ petitioner the Disciplinary Authority virtually demoted the writ petitioner to the bottom of his cadre which was not interfered by the State in appeal and hence the writ petition.

The learned Single Judge, in our view, rightly held that it was necessary for the Disciplinary Authority first to indicate the reasons for disagreement with the enquiry report. The Disciplinary Authority had a right to disagree but then that disagreement had to be indicated so that the delinquent could show that the Enquiry Officer's view was correct. That having not been indicated that would be fatal to the proceedings as not only would it

be violative of the procedural rules but also rules of natural justice.
We, thus, find no reason to interfere. This appeal is, accordingly,
dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Arjun/Rajesh

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