

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.178 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 263 of 2000
Along with
Interlocutory Application No.651 of 2016**

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Raj Kishore Singh, son of Late Vidya Singh, Resident of village- Kathyan, P.S.-
Jalalpur, District- Saran.

.... Petitioner- 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.
4. The Joint Secretary, Department of General Administration, Vidyut Bhawan, Bailey Road, Patna.
5. General Manager cum Chief Engineer, Tirhut Area Electricity Board, Muzaffarpur.
6. The Electrical Superintending Engineer, Electric Circle, Muzaffarpur.
7. The Electrical Executive Engineer, Electric Supply Division, (Vaishali).

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Viveka Nand Singh, Advocate
For the Respondent/s : Mr. Vinay Kirti Singh, Senior Advocate
Mr. Vijay Kumar Verma, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 07-12-2016

Re.: Interlocutory Application No.651 of 2016

The application is for condonation of delay of 112 days in
filing of the present Letters Patent Appeal.

For the reasons mentioned in the application, we find that
sufficient cause is made out for condonation of delay. Consequently,



we condone the delay in filing of the present Letters Patent Appeal.

Interlocutory Application stands allowed accordingly.

Re.: Letters Patent Appeal No.178 of 2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 14th July, 2015 whereby, the challenge to the order of punishment dated 26th June, 1998, order in appeal dated 16th April, 1999 and then reconsideration by the Board on 23rd January, 2006 substituting the order of punishment to that of stoppage of five annual increments with cumulative effect; censure; no promotion from the earlier date of dismissal till the date of issue of the order and that period of dismissal till the date of issue of the order will be treated as 'no work no pay' remained unsuccessful.

Learned Single Bench has examined the process of imposition of punishment on account of misconduct of unauthorized occupation of official quarter which he did not vacate after his transfer from Hajipur to Sitamarhi. He was relieved on 10th June, 1993. Since he did not vacate the official quarter, the appellant was placed under suspension on 9th November, 1995 in contemplation of initiation of departmental proceeding. A charge-sheet was issued on 27th March, 1996. The departmental proceedings were concluded and the enquiry officer submitted his report on 21st January, 1998. Copy of the enquiry



report was supplied to the appellant seeking his response as to why he be not dismissed from service. The appellant submitted his reply and considering the record of the departmental enquiry, report of the enquiry officer and comments submitted by the appellant, the disciplinary authority imposed punishment of dismissal from service on 26th June, 1998. The appeal was dismissed on 16th April, 1999.

The respondent-Board granted indulgence to the appellant when it considered the representation regarding the quantum of punishment and substituted the order of punishment from dismissal to the order of stoppage of increments etc.

The sole argument raised by the learned counsel for the appellant is that an employee in similar circumstances has been dealt with differently inasmuch as he was imposed punishment of one increment; therefore, the respondent-Board has acted in arbitrary and discriminatory manner.

The question as to whether there can be parity in punishment has been examined by the Hon'ble Supreme Court in Lucknow Kshetriya Gramin Bank Versus. Rajendra Singh, (2013) 12 SCC 372, wherein it has been held that the question of parity can only arise if two employees are dealt with in one enquiry having similar allegations and different punishments are given. Where there are two separate enquiries, there cannot be any parity in the punishment. It was



held to the following effect:-

“20. It is made clear that such a comparison is permissible only when the other employee(s) who is given lighter punishment was a co-delinquent. Such a comparison is not permissible by citing the cases of other employees, as precedents, in altogether different departmental enquiries.

In view of the said judgment, we do not find any merit in the argument raised by the learned counsel for the appellant. The Letters Patent Appeal is dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

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