

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14841 of 2008

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Birendra Kumar Verma, S/O Late Barmeshwar Prasad Sinha, R/O Village – Pargati Nagar, Bhagwan Bazar, Chapra, P.S. – Bhagwan Bazar, District – Saran at present Junior Engineer, Mechanical, Field Machinery Division, Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar.
2. Commissioner-cum-Secretary, Water Resources Department, Bihar, Patna.
3. Deputy Secretary to Government, Water Resources Department, Bihar, Patna.
4. Additional Secretary to Government, Water Resources Department, Bihar, Patna.
5. Superintending Engineer-cum-Inquiry Officer, Irrigation, Mechanical Division, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner : Mr. Tara Nath Jha, Advocate.

For the Respondents : Mr. Hari Shankar Rai, AC to PAAG 1.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 07-02-2017

Heard Shri Tara Nath Jha, learned counsel appearing on behalf of the petitioner and Shri Hari Shankar Rai A.C. to PAAG 1 for the respondents.

2. The petitioner filed this writ petition for quashing the Order No. 99 dated 07.05.2002 issued under the signature of Deputy Secretary, Water Resources Department, Government of Bihar by which the petitioner was inflicted censure for the year 1999 and 2000 and one increment with cumulative effect was stopped.

3. The facts which are relevant for the disposal of this writ petition are that the petitioner was posted as Junior Engineer Mechanical, Electric Sub-Division, Palamu and a departmental



proceeding was initiated for the charge that while he was posted as Junior Engineer in Bidyut Sub-Division falling under the Mechanical Division, Palamu in the year 1997 and 1998, the petitioner did some dereliction of duty and he did not cooperate the Executive Engineer in the enquiry. The petitioner was asked to show cause on the preliminary enquiry report held for initiation of the departmental proceeding. The petitioner filed his show cause on 10.05.2000 stating therein in sum and substance that the petitioner has not committed any dereliction of duty and he is not at all responsible to report about theft, said to have taken place, in the store. The departmental enquiry was held and the enquiry conducting officer submitted his report. The disciplinary authority on 10.01.2001 after having receipt the enquiry report issued show cause notice. The petitioner filed his second show cause on 06.10.2001. The petitioner stated that no document was served on him nor the conducting officer fixed any date for departmental enquiry. Although, the enquiry conducting officer did not find any fault on the part of the petitioner, but at the same time the enquiry conducting officer found the petitioner responsible for not having full control over the Chowkidar and on this ground he was found guilty. The disciplinary authority vide order dated 07.05.2002 (Annexure-6) inflicted the aforesaid punishment.

4. The respondents filed the counter affidavit but did not



deny the specific averment of the petitioner that no date of departmental enquiry was fixed, nor the petitioner was informed before the departmental enquiry. Shri Hari Shankar Rai, learned counsel for the respondents drew my attention to the Annexure-C of the supplementary counter affidavit and submitted that the petitioner was informed that he might inspect the office and find out the relevant records for his defence, but the petitioner never appeared before the enquiry conducting officer and, therefore, it is not the fault of the enquiry conducting officer rather, it was the fault of the petitioner who intentionally and knowingly did not appear before the enquiry conducting officer.

5. From perusal of the records, it appears that the enquiry conducting officer did not fixed any date for departmental enquiry, nor issue any information to the delinquent/the petitioner to appear at the departmental enquiry. The enquiry conducting officer, himself, perused the records and submitted his report. On the face, it appears that the departmental enquiry was not held in accordance with law, nor the petitioner was duly informed, therefore, on such report any punishment of withholding the increment of the petitioner with cumulative effect in my view is not sustainable in the eye of law.

6. Accordingly, the order no. 99, dated 07.05.2002 is quashed. The matter is again remitted to the enquiry conducting



officer to proceed in accordance with law, if at all, the department desires so.

(Prabhat Kumar Jha, J.)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

