

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14676 of 2012

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1. Pushpa Devi Wife Of Late Daya Shankar Srivastava Resident Of Village Tikri P.O. Pratappur, District Siwan, At Present Resident Of Ekma Electricity Sub-Centre Colony, P.O. And P.S. Ekma, District Chapra (Saran)

.... Petitioner/s

Versus

1. Bihar State Electricity Board through Its Chairman, Vidyut Bhawan, Patna
2. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna
3. The Electrical Superintending Engineer, Electrical Circle, Chapra
4. The Assistant Engineer, MRT Sub-Division, Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sushil Kumar Jha
Mr Akhileshwar Kumar

For the Respondent/s : Mrs Nivedita Nirvikar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 22-05-2017

Heard learned counsel for the petitioner and learned counsel for the respondent erstwhile Bihar State Electricity Board.

The order of termination dated 02.04.1996 issued under the signature of the Superintending Engineer terminating the service of the husband of the petitioner for prolonged absence is under challenge in the present writ application. The charge on which the order of termination was passed against the husband of the petitioner was that he has been on unauthorized absence from 05.09.1994. There was newspaper publication and notices but since he did not respond, the respondents were left with no option but to terminate his services.

Admitted fact is that the husband of the petitioner left for work on 05.09.1994 and then went missing and was not heard of. The family tried its level best to locate him but since nothing was



heard, a *Sanha* was lodged in Ekma Police Station on 17.10.1995. It seems that the husband of the petitioner had lost his mental balance. He was traced on 18.3.2008 in Howrah. He was brought home but he did not survive for long and died.

Merely because there has been prolonged absence and in the given facts that the husband of the petitioner had gone missing and was not in the best of mental health when he was recovered, than all the notices and newspaper publication is of no avail. The order of termination, therefore, passed in terms of Annexure- 1 dated 02.04.1996 without holding of any proper departmental enquiry cannot be sustained in law because any order of termination of a permanent employee having civil consequences must be passed after a due departmental enquiry.

Since the husband of the petitioner was not in a position to participate in any departmental enquiry and no enquiry was held and merely on prolonged absence his services was terminated, the order of termination in terms of Annexure- 1, dated 02.04.1996 is quashed.

Writ application is allowed.

(Ajay Kumar Tripathi, J)

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