

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.836 of 2016

In
Civil Writ Jurisdiction Case No.14003 of 2001

-
1. The State of Bihar
 2. The Deputy Secretary to Government, Water Resources Department, Government of Bihar.
 3. The Joint Secretary to the Government, Irrigation Department, Government of Bihar.

... .. Appellant/s

Versus

Nand Kumar Rana, Son of Late Banarsi Rana, Resident of Village Bhatolia,
Police Station Ninapur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Amarendra Kumar, A.C. to AAG-15

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-11-2017

Delay of 213 days in filing of this appeal is
condoned. I.A. No. 3288 of 2016 stands allowed and disposed
of.

Having heard learned counsel for the appellants we
find that taking note of the fact that the Disciplinary Authority
has disagreed with the finding of the Inquiry Officer with regard
to five charges which were found not to be proved, the learned
Writ Court has remanded the matter back to take action in terms
of Rule 97 (3) of the Bihar Service Code.

We have gone through the order of disagreement



(Annexure-10) and we find that except for reproducing the charges in a very casual manner the finding of the Inquiry Officer are not referred to. The reasons for differing with the Inquiry Officer's report and the material on the basis of which the disagreement is recorded are also not indicated in the notice issued vide Annexure-10.

That being so, we find no error in the order passed by the learned Writ Court. If the Disciplinary Authority disagrees with the findings of the Inquiry Officer, the Disciplinary Authority is required to refer to the findings of the Inquiry Officer, the evidence that came on record and after analyzing the same has to give reasons as to why he proposes to differ from the finding of the Inquiry Officer and what are the material based on which he proposes to do so. All these exercise having not been done, as is apparent from Annexure-10, we see no error in the order passed by the learned Writ Court warranting reconsideration, more so when liberty has been granted to the department to proceed in terms of Rule 97(3) of the Bihar Service Code.

Accordingly, finding no ground, the appeal stands dismissed. If advised and if permissible under law the respondents are free to proceed with the inquiry from the stage



of receipt of the Inquiry Report.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.11.2017
Transmission Date	

