

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1504 of 2013

IN

Civil Writ Jurisdiction Case No. 7261 of 2011

- =====
1. The State Of Bihar Through The Principal Secretary, Road Construction Department, Government Of Bihar, Patna.
 2. The Principal Secretary Road Construction Department, Govt. Of Bihar, Patna.
 3. The Deputy Secretary (Vigilance) Road Construction Department, Government Of Bihar, Patna.
 4. The Additional Secretary, Road Construction Department, Govt. Of Bihar, Patna.
 5. The Chief Engineer, National Highway Wing Road Construction Department, Govt. Of Bihar, Patna.
 6. Superintending Engineer, Road Construction Department, Road Circle, Purnea, Government Of Bihar.
 7. Engineer In Chief, Road Construction Department, Govt. Of Bihar, Patna.

.... Appellant/s

Versus

1. Chetan Kumar Markan S/O Late Ramdev Markan Resident Of Markan House, P.O. Daheria Mills, P.S. Katihar, District Katihar At Present Residing At Opposite Uttar Bihar Graimin Bank (Regional Office) Shreenagar Hata, P.S. Khazanchi Hat, Purnea.
2. The Accountant General Of Bihar, Birchand Patel Path, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Subhash Prasad Singh, GA-3
For the Respondent/s : Mrs. Soni Shrivastava, Advocate
Mr. Ravi Bhardwaj, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 28-02-2017

The delay is of 75 days in moving the appeal, for which a condonation application, namely, I. A. No. 8320 of 2013 has been filed.

For the reasons indicated in the interlocutory application, the delay is condoned.

Interlocutory application stands allowed.

Matter is thereafter taken up on merits.



Vide order, dated 25.06.2013, the Learned Single Judge has allowed the writ application, quashed the order, dated 16.08.2010, issued by the State Government, which was an order for forfeiture of 50 per cent of pension of the private-respondent. It is this relief, which has been granted, which has compelled the State authorities to file the present appeal.

Stand of the counsel for the State is that due procedure was followed, enquiry was held and after a show-cause etc., order of punishment came to visit him on a departmental enquiry, which was initiated earlier, but later on converted under Rule 43 (b) of the Bihar Pension Rules, since the private-respondent superannuated.

Respondent has a chequered history and even in this case payments have been made with regard to the work done without actual physical verification and in violation of 1992 circular, which is still in vogue, as is the stand of the State.

The keenness, which is being shown by the State in trying to assail the order of the Learned Single Judge, should have been shown by the enquiry officer and the disciplinary authority. The Court has been taken through the enquiry report, based on which the order of punishment has come to visit the private-respondent.

The stand of the counsel representing the private-respondent is that no evidence as such was led in support of the charges. The evidence, which was supposed to be used, was not even presented or anybody was called as a witness to identify those documents.



The Learned Single Judge has taken note of the fact that the payment of bills had been made by the private-respondent, which was part payment of already earlier settled bills by the previous incumbent. The explanation offered that the bills were verified in terms of the 1992 circular, but actual physical verification was not required to be done, especially when Monsoon had intervened, was accepted by the Learned Single Judge and, therefore, the finding of guilt, based on the 1992 circular, was held to be irrational and arbitrary.

The conclusion, therefore, reached by the Learned Single Judge with regard to the manner in which the enquiry was held and the way the punishment came to visit by mis-applying the 1992 circular or re-reading its impact or import cannot be said to be faulty.

The appeal, therefore, has no merit. There is no error of law or fact, which is required to be rectified in appeal.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	02.03.2017
Transmission Date	

