

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15915 of 2007

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Pashupati Prasad son of Late Gharbharan Singh, resident of village Jai Prakash
Nagar, Kataria Road, P.S. Arrah, District Bhojpur (Ara)

.... Petitioner

Versus

1. The State of Bihar.
2. Commissioner-cum-Secretary, P.W.D. Government of Bihar, Patna.
3. Engineer in Chief, Govt. of Bihar, Patna.
4. Chief Engineer, Road Construction, Bihar, Patna
5. The Superintending Engineer, Bhojpur Road Construction Ara.
6. Executive Engineer, Road Construction, Ara
7. Executive Engineer, Road Construction Div-II, Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner : None

For the Respondents : Mr. P.K. Verma, AAG 3

Dr. Mankeshwar Tiwari, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 31-07-2017

None appears on behalf of the petitioner despite repeated calls.

2. The present writ petition has been filed for quashing the office order being Memo No. 4838 (E) Patna dated 17.10.2007 contained in Annexure-7 by which the Chief Engineer, Road Construction Department, Government of Bihar, Patna has passed an order for recovery of a sum of Rs. 3,80,000/- from the salary of the petitioner in 25 instalments as well as stoppage of two increments with cumulative effect and also punishment of admonition to be mentioned in the C.R. of the petitioner.



3. According to the writ petition, it appears that pursuant to the petitioner being allotted the work of repairing of 10 Km stretch of road from Tetariamor to Udwant Nagar, the said work was completed and ditches on the road were filled with brick bats. The petitioner worked under the supervision of the higher official and after completion of work payment was made. After a long period since completion of work, the impugned order has been passed without proper notice and hence, the petitioner was unable to submit his explanation.

4. Learned counsel for the respondents on the other hand submits with reference to paragraphs 5 and 6 of the counter affidavit that ditches on the road had to be filled with stone metal but in connivance with the Executive Engineer and against the direction and order of the Superintending Engineer, the order was passed to fill up the ditches with brick bats. The said irregularity came to light in course of taking disciplinary action against the Executive Engineer. It is further submitted that despite explanation being sought by the authorities or reply to the charge sheet framed against the petitioner vide departmental letter no. 4121 (E) dated 17.11.2003, no explanation or reply to the charge sheet was received from the petitioner and hence, the punishment has been imposed in terms of the impugned order. The appeal belatedly filed against the order of punishment was also dismissed by the Appellate Authority.



5. Having heard learned counsel for the respondents, this Court does not find it a fit case for interference. The stand of the respondents that explanation was admittedly called for and reply to the charge sheet in terms of the letter dated 17.11.2003 but no explanation or reply to the charge sheet was received from the petitioner, has not been controverted and no rejoinder has been filed on behalf of the petitioner. If the irregularity committed by the petitioner came to notice in course of the proceedings initiated against the Executive Engineer, the authorities cannot be faulted on the ground of delay in taking action against the petitioner.

6. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

B.T/Ibrar

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