

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7995 of 2014

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1. Gyan Prakash Srivastava, S/o late Raghunath Prasad, R/o Rajeev Nagar,
Road Number 8, P.S. Patliputra, District- Patna- 800023, Bihar.. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar,
Patna

2. Principal Secretary, Department of Animal and Fisheries Resources,
Government of Bihar, Patna

3. Director, Department of Animal and Fisheries Resources, Government of
Bihar, Patna

4. Special Secretary-cum-enquiry Officer, Department of Animal and
Fisheries Resources, Government of Bihar, Patna

5. Under Secretary, Department of Animal and Fisheries Resources,
Government of Bihar, Patna

6. Joint Secretary, Department of Animal and Fisheries Resources,
Government of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik
For the Respondent/s : Mr. SC-21 K. Manish

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR
JHA
ORAL ORDER

2 04-08-2017

Heard both sides.

The learned counsel for the State has raised preliminary objection that the petitioner has filed this writ petition for quashing the order contained in memo No. 354 dated 26.02.2014 issued under the signature of Director, Department of Animal and Fisheries Resources, Government of Bihar, Patna whereby the service of the petitioner has been terminated from the post of Fisheries Development Officer but according to Rule 23 of Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the CCA Rules) the petitioner has to prefer statutory appeal before the appropriate authority as mentioned in Rule 24 of the CCA Rules. The order of punishment is issued by the Director, Department of Animal and Fisheries Resources, Government of Bihar, Patna and, therefore, the appeal shall lie before the Principal Secretary, Department of Animal and



Fisheries Resources, Government of Bihar, Patna.

On the other hand, Shri Kumar Kaushik, the learned counsel for the petitioner, has filed supplementary affidavit stating therein that the petitioner was put under suspension by the order of Principal Secretary. A departmental enquiry was held although the petitioner was not found guilty of any charge but the enquiry officer found that charge prima facie proved and on such the disciplinary authority dismissed the petitioner from services and placed the file before the Principal Secretary for approval although no approval is required. The Principal Secretary has already applied his mind, therefore, the appeal before the Principal Secretary shall be a mere formality.

Having considered the submission of the parties, I find that the Principal Secretary, Department of Animal and Fisheries Resources, Government of Bihar, Patna might have applied his administrative mind but since there is provision of statutory appeal, the petitioner should have exhausted the remedy of statutory appeal before filing the writ petition.

Considering the facts aforesaid, this writ petition is disposed of with a direction to the petitioner to file appeal before the Principal Secretary, Department of Animal and Fisheries Resources, Government of Bihar, Patna or before the appropriate authority who shall dispose of the appeal of the petitioner within three months from the date of its filing.

(Prabhat Kumar Jha, J)

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