

IN THE HIGH COURT OF JUDICATURE AT PATNA**Civil Writ Jurisdiction Case No.11242 of 2011**

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Satyendra Kumar Singh, S/O Sri Harangi Singh, Resident of Mohalla- Yarpur
Rajputana (Gardanibagh Road No.- 1), P.S.- Gardanibagh, District- Patna

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Water Resources Department, Bihar, Patna
2. Principal Secretary, Water Resources Department, Bihar, Patna
3. Deputy Secretary, Water Resources Department, Bihar, Patna
4. Engineer-In-Chief (Central), Water Resources Department, Bihar, Patna

.... Respondents

Appearance:

For the Petitioner/s : Mr. Banwari Sharma, Advocate
Mr. Sahjanand Sharma, Advocate.

For the State : Mr. Sumant Kumar Singh, A.C. to G.A.-2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 20-12-2017

Heard learned counsel for the petitioner and learned counsel for the State.

2. In the present case, the petitioner was holding the post of Junior Engineer in the Water Resources Department. He was put under suspension vide order containing memo no.1313 dated 19.11.2009. A departmental proceeding was initiated against him vide order no.1445 dated 07.12.2009. Altogether four charges were mentioned, there is no need to mention the allegations mentioned in the charge-sheet. The Inquiry Officer conducted the inquiry and submitted the inquiry report vide letter no.704 dated 29.04.2010 and found the charges not proved against him. The Disciplinary



Authority, namely, Engineer-in-Chief (Central), Water Resources Department, Bihar, Patna, vide letter no.1064 dated 20.07.2010 has recorded that the Inquiry Officer did not find the charges proved against him but he disagreed with the finding recorded by the Inquiry Officer and proposed four punishment without recording the point of difference with the finding recorded by the Inquiry Officer. The petitioner filed a show-cause, that too he has not been discussed by the Disciplinary Authority and passed the order of punishment vide memo no.1614 dated 28.10.2010. Four punishments have been inflicted; sensor, stoppage of one increment with cumulative effect, entry of two adverse report and warning for future activities. The appeal was filed by the petitioner, which has been rejected by the Engineer-in-Chief (Central) vide memo no.115 dated 01.02.2011. It does not stand to the reason that the person who has passed the order of punishment has heard the appeal; it may be in the shape of review but cannot be in the shape of appeal.

3. A limited question has been raised in the present case about the action of punishment against the petitioner, submitting that if the Inquiry Officer has given the finding in favour of the petitioner, it was required for the Disciplinary Authority to record a finding of disagreement separately, serve the same upon the delinquent and after considering his explanation may pass order in accordance with



law and while passing the order of punishment it must reflect the application of mind. Reference can be made to the decision of *Punjab National Bank and Ors. vs. Kunj Bihari Mishra,* reported in *1998(7) S.C.C. 84.*

4. As the orders of the Disciplinary Authority and Appellate Authority are not compatible with the aforesaid proposition of law as has been enunciated by the Apex Court in the case of *Kunj Bihari Mishra (supra)* the same suffer from illegality and require interference. Accordingly, the order containing memo no.1614 dated 28.10.2010 passed by the Engineer-in-Chief (Central), Water Resources Department, Bihar, Patna and the order containing memo no.115 dated 01.02.2011 passed by the same Officer are set aside. The matter is remanded back to the respondent authorities, if they so like, may proceed with the matter in accordance with law.

5. With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	04.01.2018
Transmission Date	N/A.

