

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.318 of 2016  
IN  
Civil Writ Jurisdiction Case No. 1562 of 2000**

- =====
1. The Union Of India through the Director General, Central Industrial Security Force, 13, CGOS Complex, Lodhi Road, New Delhi-110003
  2. Inspector General, Central Industrial Security Force, Eastern Zone Head Quarters, 19 Telegraph Colony, Kidwaipuri, Patna-1
  3. Deputy Inspector General, Central Industrial Security Force, Eastern Zone Head Quarters, 19 Telegraph Colony, Kidwaipuri, Patna-1
  4. Group Commandant, Central Industrial Security Force, Ministry of Home Affairs, Kurji Balupar, P.O. Sadakat Ashram, Patna-10
  5. Shri R.P. Singh, Inspector (Enquiry Officer), Central Industrial Security Force, Unit Kahalgaon Super Thermal Power Plant, Kahalgaon

.... .... Appellant/s

Versus

Bina Devi, Wife of Late Ram Japu Jha, Resident of Village and Post Office-Phulhara, P.S. Singhia, District- Samastipur

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. S.D. Sanjay (ASG)  
Mr. Kumar Priya Ranjan, CGC  
For the Respondent/s : Mr. Manish Kumar, Advocate  
Mr. Manoj Kumar, Advocate  
Mr. Sanjay Parasmani, Advocate

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**CORAM: HONOURABLE THE CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE CHIEF JUSTICE)**

**Date: 21-08-2017**

Having heard learned counsel for the parties at length and on going through the entire original records of the departmental enquiry, we are of the considered view that the question of law as to whether a presenting officer is required to be appointed in each and



every case of departmental enquiry, particularly when the statutory rule governing conduct of departmental enquiry does not provide for appointing a presenting officer, is a question to be decided based on the facts and circumstances of each case. It cannot be laid down as a proposition of law in all cases that merely because the presenting officer is not appointed, the departmental enquiry stands vitiated. A Rule can provide for conduct of an enquiry without appointing the presenting officer and in a particular case the Enquiry Officer may have conducted the enquiry without stepping into the shoes of the prosecutor and conducted the enquiry and recorded a finding as an impartial Enquiry Officer. In a case it may be possible that the Enquiry Officer, apart from his role as an Enquiry Officer, may step into the shoes of a prosecutor and prosecute the case of the prosecution, in such a case, the Enquiry Officer may have been acting as a prosecutor which violates the principles of natural justice.

However, in the present case, we find that apart from the fact that the original employee has expired, certain proceedings of the enquiry which have come on record do indicate that the Enquiry Officer also acted as a prosecutor in passing certain orders detrimental to the interest of the employee and, therefore, in the present case, finding of the learned Writ Court does not call for any interference.



We leave the larger question of law as indicated hereinabove open to be considered and decided in the backdrop of the observations made hereinabove in an appropriate case.

With the aforesaid, the appeal is disposed of.

**(Rajendra Menon, CJ)**

**(Anil Kumar Upadhyay, J)**

K.C.jha/-

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