

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10076 of 2014

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1. Prakash Chandra Jha son of Late Dinesh Chandra Jha resident of Village + Post - Tetari, P.S. Naugachia, District – Bhagalpur Petitioner

Versus

1. The Bihar State Power Transmission Co. Ltd., Patna through its Chairman - cum - Managing Director, Vidyut Bhawan, P.S. Kotwali, District - Patna (her-in-after referred to as B S P T C L Patna)
2. The Chairman - cum - Managing Director, the Bihar State Power Transmission Co. Ltd., Vidyut Bhawan, P.S. Kotwali, District Patna
3. The Deputy General Manager (Human Resource and Administration), B S P T C L, P.S. Kotwali, District - Patna
4. The General Manager - cum - Chief Engineer Zone, B S P T C L, P.S. Sadar, District - Muzaffarpur Respondents

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Appearance :

For the Petitioner : Mr. Ajey Kumar, Adv.
For the Respondents : Mr. Vinay Kirti Singh, Sr. Adv. with
Mr. Anand Kumar Ojha, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 20-11-2017

Heard both sides.

The petitioner has filed this writ petition for quashing the order, dated 21.05.2014, as contained in Memo No. 396 (Annexure 6) by which the petitioner is inflicted with punishment of censure, a minor punishment, but, at the same time, it is ordered that the petitioner shall not be entitled for any salary except the subsistence allowance, already paid to the petitioner during the period of suspension.

The order, impugned, is challenged solely on the ground that the disciplinary authority did not at all consider the report of the Enquiry Officer. The Enquiry Officer did not find the petitioner guilty and on mere conjecture and surmises the disciplinary authority recorded the finding that the petitioner should have got the grasses trimmed before rainy season, which might have been the prime cause for tripping of the grid. On such, the disciplinary authority passed censure and ordered for entry in Annual Character Roll (ACR) for the year 2013-2014. It is, further, submitted that no payment of salary of the suspension period beyond subsistence allowance is ordered without following



the procedure, as laid down under Rule 11 of the Bihar Government Servant (Classification, Control and Appeal) Rule, 2005.

Mr. Anand Kumar Ojha, the learned counsel appearing on behalf of the Bihar State Power Transmission Company Limited, Patna, submitted that the Bihar State Power Transmission Company Limited has adopted Bihar Government Servant (Classification, Control and Appeal) Rule, 2005 (hereinafter referred as, 'the CCA Rules, 2005').

It appears from the perusal of Rule 11 of the CCA Rules, 2005, that the disciplinary authority on reinstatement of the Government employee after suspension shall pass order in accordance with sub rules (3) and (5) of Rule 11 of CCA Rules, 2005, but, no notice was given to the petitioner before passing the order withholding salary of the petitioner during suspension period.

Having considered the submissions and on perusal of the order, impugned, it appears that the order, dated 21.05.2014, as contained in Memo No. 396 (Annexure 6) withholding the salary of the petitioner during the suspension period is passed in contravention of Rule 11 of the CCA Rules, 2005 and, accordingly, that part of the order is set aside and the writ is allowed.

The matter is remitted to the disciplinary authority to pass order in accordance with law.

(Prabhat Kumar Jha, J)

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