

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.910 of 2015
IN
Civil Writ Jurisdiction Case No. 21909 of 2012

- =====
1. The Bihar State Power (Holding) Company Limited, through its Chairman-cum- Managing Director, Vidyut Bhawan Jawahar Lal Nehru Marg (Bailey Road) P.S.- Kotwali, District- Patna 800021.
 2. The Chairman-cum- Managing Director, the Bihar State Power (Holding) Company Limited, Jawahar Lal Nehru Marg, Bailey Road, Patna.
 3. The South Bihar Power Distribution Company Limited through its Managing Director, P.S.- Kotwali Jawahar Lal Nehru Marg (Bailey Road) District- Patna.
 4. The General Manager (HR)-cum-Chief Engineer, South Bihar Power Distribution Company Ltd. Central Electric Supply Area, Daroga Rai Path, Patna.
 5. The Superintending Engineer Electric, Nalanda Electric Supply Circle Bihar Sharif, District- Nalanda.
 6. The D.G.M South Bihar Power Distribution Company Ltd., Vidyut Bhawan Jawahar Lal Nehru Marg Bailey Road, P.S.- Kotwali, District- Patna.
 7. The Accountant Officer, Nalanda Electric Supply Circle Bihar- Sharif Nalanda.

.... Appellant/s

Versus

Lakshmi Mahto, Son of Late Jhumak Mahto, Resident of Village- Sirsia P.O.- Tajpur, P.S.- Bangara, District- Samastipur.

.... Respondent/s

with

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Letters Patent Appeal No. 1815 of 2015
IN
Civil Writ Jurisdiction Case No. 20945 of 2012

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1. The Bihar State Electricity Board now Bihar State Power (Holding) Company Ltd through its Chairman now Chairman cum Managing Director, Vidhyut Bhawan, Baily Road Patna
2. Chairman now Chairman cum Managing Director, Bihar State Electricity Board now Bihar State Power (Holding) Company Vidhyut Bhawan, Baily Road Patna
3. The Secretary Now General Manager (HR), Bihar State Electricity Board now North Bihar Power Distribution Company Ltd Vidhyut Bhawan, Baily Road Patna
4. The Joint Secretary, Now Deputy General Manager (HR), Bihar State Electricity Board now North Bihar Power Distribution Company Ltd Vidhyut Bhawan, Baily Road Patna.

.... Appellant/s

Versus

Hari Man Mohan Choudhary, son of Late Bhola Nath Choudhary, resident of Village- Sahuria, Via Babubarhi, Andhra Thadhi, District Madhubani

.... Respondent/s

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Appearance :

(In LPA No.910 of 2015)

For the Appellant/s : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate
For the Respondent/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar Sinha, Advocate

(In LPA No.1815 of 2015)

For the Appellant/s : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma, Advocate
Mr. Akhileshwar Singh, Advocate
For the Respondent/s : Mr. N. K. Malhotra, Sr. Advocate
Mr. Binod Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 10-01-2017

Heard learned counsel for the parties.

Since in both the appeals the factual background seems to be similar and the question of law identical, therefore, they were taken up and heard together.

In both the appeals certain charges were brought against the delinquents. A disciplinary enquiry was initiated. Enquiry was concluded. But instead of proceeding further, the authorities of the Power Holding Company decided to take an easy way out by invoking the powers under clause 74 of the Bihar State Electricity Board Service Regulation, 1976, read with Rule 135 of Bihar Pension Rules, meaning thereby that they decided to compulsory retire both the delinquents, instead of passing an order on the basis of the enquiry, as a measure of punishment.

This Court is not swayed by the fact that there was



certain serious charges of misappropriation of money etc. and even omission of responsibility for the reason that the Board had all the requisite authority to deal with the said delinquents within the frame work of the rules and regulations. Why they chose to not complete the process of disciplinary proceedings and impose suitable punishment is not for this Court to investigate or enquire. The Court is saddled with the responsibility of adjudicating whether the view taken by the two Learned Single Judges that a compulsory retirement cannot be a substitute for disciplinary action and punishment, expresses the correct view on law or not?

The submission of the learned senior counsel for the Power Holding Company that compulsory retirement is not a stigma as has been held by the Hon'ble Supreme Court as early as in 1954, as a proposition of law, is not disputed, but the learned senior counsel omits to point out to this Bench that the same Hon'ble Supreme Court, has held that compulsory retirement is not a substitute for disciplinary action against a delinquent.

Since both the decisions of the Learned Single Judges, which are under challenge in the two appeals, do not suffer from any illegality, as of law or fact, therefore, both the appeals are required to be dismissed.

The Court, however, is willing to give indulgence to the Power Holding Company in the case of Lakshmi Mahto as well to proceed with the disciplinary enquiry from the stage it was



abandoned, as similar indulgence was given by one of the Learned Single Judge in the case of Hari Man Mohan Choudhary.

Both the appeals are dismissed, except with the liberty to the extent indicated in L. P. A. No. 910 of 2015 i.e. the case of Lakshmi Mahto.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

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