

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5487 of 2010

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Yogendra Prasad Mandal S/O Late Binda Mandal R/O Tara Kutir, Bapu Path,
New Area Purandarpur, P.S - Jakkanpur, District - Patna at present working
as Accountant Office Headquarter , Bihar State Electricity Board, Patna,
Vidyut Bhawan, Bailey Road, Patna

.... Petitioner

Versus

1. The Bihar State Electricity Board, Patna through its Chairman, Bihar State Electricity Board, Patna,
2. The Secretary, Bihar State Electricity Board, Patna.
3. Joint Secretary, Bihar State Electricity Board, Patna.
4. Deputy Director, Personal cum Enquiry Officer, Bihar State Electricity Board, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Binod Kumar
Ms. Mitali

For the Respondent/s : Mr. Namrata Mishra

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL JUDGMENT
Date: 01-05-2017

Heard Ms. Mitali, learned counsel, who has argued in presence of Sri Binod Kumar, learned counsel for the petitioner and Smt. Namrata Mishra, learned counsel appearing on behalf of all the respondents/Bihar State Electricity Board (for short "Board").

2. The petitioner has approached this Court invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to quash part of the order dated 16-12-2008, contained in Memo No. 3142, whereby the period of absence of the petitioner i.e. from 26-11-2005 to 7.2.2006 (total 74 days) was sanctioned and regularized, as leave without pay. It has been prayed by the petitioner



that the said period may be treated, as period of medical leave.

3. It has been admitted by learned counsel for the petitioner that petitioner was proceeded departmentally on the charge of unauthorized absence and he was suspended and thereafter, punishment order was passed. The order of the punishment in appeal was modified to the extent that ***censure*** as well as ***stoppage of annual increment*** was waived by the appellate authority and finally, a Bench of this Court in C.W.J.C. No. 2073 of 2007 dated 22-09-2008 passed order for payment of full salary to the petitioner during the suspension period. Learned counsel for the petitioner tried to persuade the Court that the petitioner remained absent due to serious ailment, for which, he had applied for medical leave and incorrectly, he was proceeded departmentally. According to learned counsel for the petitioner, the order is illegal and same requires to be set aside.

4. Smt. Namrata Mishra, learned counsel for the respondent/Board, by way of referring to fact disclosed in the counter affidavit, submits that on the charge of unauthorized absence, the petitioner was proceeded departmentally. Since there was no approval for medical leave, the period, during which the petitioner remained absent, was subsequently regularized by the impugned order by way of treating the same period as a period of ***leave without pay***. By way of referring to fact disclosed in ***paragraph - 7*** of the counter affidavit, it has been argued that in compliance with the order dated 22-09-2008



passed in C.W.J.C. No. 2073 of 2007, the Board’s earlier order, whereby save & except subsistence allowance, the petitioner was not paid any other thing, the said order was recalled and petitioner was allowed full salary for the period of suspension.

5. Considering the facts and circumstances that by the impugned order only the period of absence has been regularized, I do not find any ground to interfere with the said order.

6. The writ petition stands dismissed.

(Rakesh Kumar, J.)

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