

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10807 of 2014

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Ram Dayal Paswan Son of Late Mohit Paswan Resident of Mohalla- Chhapki Parri
(Near Panchayat Bhawan,), Laxmi Sagar, P.S- Darbhanga Sadar, District-
Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Works Department, Bihar, Patna.
2. Secretary, Rural Works Department, Bihar, Patna.
3. Special Secretary, Rural Works Department, Bihar, Patna.
4. Joint Secretary, Rural Works Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harshvardhan Shivsundaram, Advocate
For the State : Mr. Priya Gupta, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 29-11-2017

Heard counsels for the petitioner and the State.

Vide resolution contained in memo no. 7544 dated 08.06.2011 a proceeding under the Bihar Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Rule') was initiated against the petitioner. Charge memo was communicated to him under Praptra 'Ka'. Petitioner appeared before the Enquiry Officer and submitted his reply. Vide letter no. 88, dated 20.01.2012 the Enquiry Officer submitted his report to the Secretary, Rural Works Department, Bihar Patna, holding the allegation not proved. After that without serving a copy of enquiry report or second



show cause to the petitioner, the impugned order of punishment withholding two increments with non-cumulative effect has been passed under notification no. 2684 dated 19.07.2013 by the Joint Secretary, Rural Works Department, Bihar, Patna.

The specific case of the petitioner is that copy of the enquiry report or second show cause was not served on him. The pleading in this respect has been made by the petitioner in paragraph 10 of the writ petition.

The respondents, in the counter affidavit have given para wise reply but have chosen not to deny or respond the averments made in paragraph 10 of the writ petition regarding non-supply of the enquiry report.

Such a procedure is violative of 'Principles of Natural Justice' and the enquiry cannot be countenance wherein the disciplinary authority differs with the findings of the Enquiry Officer without giving copy of the enquiry report or without giving second show cause on the points on which he supposed to differ with the enquiry report. In this case reference may be made to the judgment of the Apex Court in the case of *Punjab National Bank and Others* vs. *Kunj Behari Misra* reported in (1998) 7 SCC 84.

In view of the aforesaid findings, the impugned order of



punishment dated 19.07.2013 is quashed. However, the authorities would be at liberty to proceed in the matter as permitted by law.

The writ petition is allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.12.2017
Transmission Date	

