

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.504 of 2017

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Arvind Prasad, Son of Sri Yadu Nandan Prasad, resident of village and Post Office-
Makanpur, Police Station - Warsaliganj, District - Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna.
3. The Departmental Enquiry Commissioner, General Administration Department, Government of Bihar, Patna.
4. The Secretary, Road Construction Department, Government of Bihar, Visweshwaraiya, Bhawan, Patna.
5. The Deputy Secretary (Vigilance), Road Construction Department, Government of Bihar, Vishweswaraiya Bhawan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Navendu Kumar, Adv.

For the Respondent/s : Mr. Ravi Bhardwaj, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-03-2017

Heard Mr. Navendu Kumar, learned counsel appearing
for the petitioner and Mr. Ravi Bhardwaj, learned Assisting Counsel
to Government Advocate No.13 for the State.

This is second round litigation by the petitioner to
question the notification of suspension bearing No.4394(S) dated
4.6.2013 being unsuccessful in his earlier round of litigation arising
from CWJC No.13393 of 2013 which writ petition was dismissed by
a Bench of this Court vide order passed on 28.1.2014 vide
Annexure-7 while affording liberty to the petitioner to pray for
revocation of his suspension before the authority concerned together



with supportive materials. It is more than 3 years since the order of this Court and yet the proceeding is hanging limbo.

A counter affidavit has been filed in which the respondents have tried to defend the suspension order on the allegations set up against the petitioner vide charge memo present at Annexure-6 and when a report was called for that a supplementary counter affidavit has been filed today wherein it is submitted by respondent no.5 i.e. the Deputy Secretary (Vigilance), Road Construction Department, Government of Bihar that the disciplinary proceeding would be concluded in next six months. In other words, a proceeding initiated vide charge memo dated 26.7.2013 i.e. almost quarter to four years ago has yet not reached its conclusion.

The suspension order dated 4.6.2013 impugned at Annexure-5 reflects that even on the said date the petitioner stood repatriated to his parent department, i.e. the Road Construction Department. The list of dates cuts a very sorry figure for the respondents for even though the alleged acts in question which is the subject matter of the disciplinary proceeding is for the period July, 2005 and October, 2009 when the petitioner was on deputation with the Patna Municipal Corporation but it is after he was repatriated to his parent Road Construction Department and 4 years thereafter that the respondents have chosen to initiate proceeding as also to suspend



him.

Though it is the submission of Mr. Navendu Kumar, learned counsel appearing for the petitioner that the very notification under which the petitioner was expected to impose penalty stands quashed by a Bench of this Court but as has been observed by this Court in the earlier round of proceedings these are issues which require adjudication by the Disciplinary Authority after considering the charge in the backdrop of the defence set up by the petitioner. Nonetheless it does not justify for the Disciplinary Authority to keep the matter hanging for more than 3 years and to keep the petitioner under suspension for almost a period of 4 years.

It is submitted by learned counsel for the petitioner and not contested that the petitioner has been cooperating in the disposal of the disciplinary proceeding and despite the request being made by him for supply of relevant documents, the same have not been provided. This Court would fail to appreciate as to how the deponent i.e. the Deputy Secretary, Road Construction Department has given an undertaking on behalf of the Disciplinary Authority of concluding the disciplinary proceeding within six months next when even the basic formalities regarding supply of relevant document is not complete.

Considering the lapse of time as well as the fact that it



was well within the knowledge of the respondents to conclude the proceeding expeditiously when this Court refused to interfere with the suspension order in the previous round of proceeding way back on 28.1.2014, the lapse is entirely attributable to the respondents.

In the circumstances so discussed above, this Court would grant 3 months’ time to the Disciplinary Authority to ensure conclusion of the disciplinary proceeding failing which he should consider and dispose of the request of the petitioner for revocation of his suspension within a period of four weeks thereafter bearing in mind that while the petitioner stands repatriated to his parent department, the accusation relates to the Urban Development Department and it is the exercise of powers by the petitioner, which is put to question in the disciplinary proceedings.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04-04-2017
Transmission Date	NA

