

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20475 of 2010

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1. Anil Kumar Srivastava S/O Late Ramji Prasas R/O Vill.- Bagheji, P.S.-
Barauli, Distt.- Gopalganj

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Cum Appellate Authority
Water Resource Department, Bihar, Patna
2. The Director, Land Acquisition And Rehabilitation, Water Resources
Department, Govt. Of Bihar, Patna
3. The District Magistrate Muzaffarpur
4. The Land Acquisition Officer Muzaffarpur
5. The Special Land Acquisition Officer Koshi Yojna, Saharsha

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mr. Lalit Kishore, AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date: 10-08-2017

Challenging the orders dated 20th of May, 2008 passed by the Director, Land Acquisition and Rehabilitation, imposing punishment of stopping promotion of the petitioner and bringing his pay to the minimum of the scale for a period of five years and the order passed by the Appellate Authority rejecting the appeal as contained in the order communicated to the petitioner on 9.2.2009, this writ petition has been filed.

A charge-sheet was issued to the petitioner on 26.6.2007 and the Enquiry Officer submitted his report vide Annexure 3 on 7.11.2007. In the report submitted by the Enquiry



Officer, the charges were found 'not proved' and the petitioner was exonerated of the charges. However, the Disciplinary Authority disagreed with the finding of the Enquiry Officer, recorded his own finding holding the petitioner guilty of the charges and imposed the aforesaid punishment on the petitioner. However, before doing so, the Disciplinary Authority did not issue any show cause notice to the petitioner, did not communicate to him the reasons as to why he proposes to disagree with the finding of the Enquiry Officer and the reasons as to why he proposes to hold the petitioner guilty of the charges levelled against him. A second show cause notice was issued to the petitioner after recording of guilt vide Annexure 4 and, therefore, challenging the aforesaid action, the writ petition in question has been filed.

A perusal of the report of the Enquiry Officer, Annexure C and the second show cause notice Annexure 4 clearly goes to show that the punishment has been imposed upon the petitioner by the Disciplinary Authority disagreeing with the finding of the Enquiry Officer recorded and recording his own finding and before doing so, he did not hear the petitioner and did not communicate reasons for disagreement. Only after recording the finding of guilt under Section 311 of Bihar C.C.A. Rules, imposition of punishment were ordered.



This being the factual position, the procedure followed by the disciplinary authority in disagreeing with the finding of exoneration recorded by the Enquiry Officer is unsustainable in view of the law laid down by the Hon’ble Supreme Court in the case of Punjab National Bank & Ors. Vs. Kunj Behari Misra, (1998) 7 SCC 84.

Keeping in view the aforesaid, this petition is allowed and the impugned order is quashed.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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