

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17337 of 2008

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Chotey Narayan, Son of Sidhi Sharma, Resident of Village Saguni, P.S. – Masaurhi, District – Patna. Correspondence Address – Chotey Narayan, C/O Annu Kumar, West of Powder Factory, P.O. – Kurthaul, P.S. – Parsa, District – Patna.

.... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Under Secretary, Water Resources Department, Govt. of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Pravina Kumari(Rai), Advocate.

For the Respondents : Mr. (SC1)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 27-01-2017

Heard both sides.

The petitioner by this writ petition seeks quashing of the order dated 28.03.2003 as contained in Memo No. 2577 (Annexure-8), by which he was dismissed from service as the petitioner solemnized second marriage during the lifetime of his first wife.

The facts which are admitted and relevant for the disposal of this writ petition are that the petitioner was appointed as Junior Engineer in Irrigation Department on 05.03.1979. Firstly, the petitioner was suspended on 09.06.1989 vide Letter No. 2390 on the allegation that the petitioner solemnized second marriage during the lifetime of his first wife. A departmental proceeding was initiated but the petitioner was exonerated as he was not found guilty of charge and accordingly his suspension was revoked on 06.05.1993. Again on the



same charge, the petitioner was suspended on 10.01.2002. The enquiry officer found the petitioner guilty, thereafter the second show cause notice was given to the petitioner. The petitioner filed his show cause but he was dismissed from the service.

Learned counsel for the petitioner submits that the petitioner solemnized second marriage with consent of his first wife in the year 1978 and the petitioner joined his service in the year 1979. The petitioner has already superannuated from his service. It is further submitted that besides the illegality in the finding of the order of dismissal as the same is non-speaking and the disciplinary authority did not consider his show cause, the punishment is disproportionate of the charge.

In my considered view, I find that the punishment is disproportionate to the charge. Accordingly, the order dated 28.03.2003 as contained in Memo No. 2577 (Annexure-8) is set aside and the matter is remitted to the disciplinary authority to pass order afresh within four months.

Accordingly, the writ petition is allowed.

(Prabhat Kumar Jha, J.)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2017
Transmission Date	NA

