

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8845 of 2009

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Sri Rajbanshi Singh, S/O Dublal Singh, Resident of Village- Hemapur, P.S.-
Bidupur, District – Vaishali.

.... Petitioner

Versus

1. The Bihar State Electricity Board through its Chairman Vidyut Bhawan Bailey Road, Patna.
2. Secretary Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.
3. Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan Bailey Road, Patna.

.... Respondents

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Appearance :

For the Petitioner

: Mr. Ashok Kumar, Advocate.

For the Respondents

: Mr. Vinay Kirti Singh, Sr. Advocate.

Mr. Akhileshwar Singh, Advocate.

Mr. Vijay Kumar Verma, Advocate.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 23-02-2017

Heard learned counsel for the petitioner and the State.

2. The petitioner seeks quashing of Office Order No. 2785 contained in Memo No. 1924 dated 13.08.2008 (Annexure-3), whereby the petitioner was inflicted punishment of stoppage of two increments with non-cumulative effects and also quashing of the order as contained in Memo No. 03 dated 01.01.2009 (Annexure-5), whereby the appeal of the petitioner was dismissed, confirming the order as contained in Annexure-3.

3. The petitioner was asked to show cause and on consideration of the show cause punishment of stoppage of two increments with non-cumulative effects was given to the petitioner.



4. Learned counsel for the petitioner submits that in view of the standing order as contained in Rule 3 the authority is not authorize to inflict punishment of stoppage of two increments either with cumulative effects or non-cumulative effects without holding any departmental enquiry.

The standing order 30 says :

Disciplinary action against workman other than casual: Subject to the provisions of these Standing Order, no orders of dismissal, stoppage of promotions or withholding of increment whether accumulative or otherwise, reduction of rank and other punishment mentioned above shall be made against a workman unless the following procedure is gone through but the appointing authority may, in its discretion, if it considers immediate suspension necessary, suspend a workman pending enquiry into the allegations made against him. However, workman convicted of an offence involving moral turpitude can be removed from service only after going through the prescribed procedure.

Sub-clause (b) of the second stage says :

(b) The explanation if prima facie, unsatisfactory, he will frame a charge sheet setting out the details of alleged misconduct and shall call upon the workman who shall be supplied with a copy of the charge-sheet to show cause against the cause so framed against him within ten days of the date of service of the order provided that if competent authority decides to inflict a punishment of censure, warning or transfer without T.A. it will be necessary to draw charges as mentioned above.

From the order impugned it appears that no charge was framed and punishment of stoppage of two increments has been inflicted.

5. Considering the facts aforesaid, I find that the order as contained in Annexure-3 is not passed in accordance with law and the same is fit to be set aside. Similarly Annexure-5 is dismissed without



any reason.

6. Accordingly, the Office Order No. 2785 contained in Memo No. 1924 dated 13.08.2008 (Annexure-3) and Memo No. 03 dated 01.01.2009 (Annexure-5) are set aside. The writ petition is allowed.

7. The authority shall be at liberty to take action, if so desires, against the petitioner in accordance with law.

(Prabhat Kumar Jha, J.)

KKSINHA/-

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CAV DATE	
Uploading Date	02.03.2017
Transmission Date	

