

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17913 of 2008

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Halo Devi, resident of Village Bihta, P.S. Sheikhpura, District Sheikhpura

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department, Vishwashraiya Bhawan, Bailey Road, Patna.
2. The Deputy Secretary, Road Construction Department, Vishwashraiya Bhawan, Bailey Road, Patna.
3. The Deputy Secretary Cum Chief Vigilance Officer, Road Construction Department, Vishwashraiya Bhawan, Bailey Road, Patna.
4. The Engineer in Chief, Road Construction Department, Vishwashraiya Bhawan, Bailey Road, Patna.
5. The Finance Commissioner, Finance Department, Old Secretariat, P.S. Sachivalaya, District- Patna.
6. The Secretary, Technical Examination Cell, Cabinet Vigilance Department, Bihar, Patna.
7. The Executive Engineer, Road Construction Department, Road Division, Biharsharif, Nalanda.
8. The Assistant Engineer, Road Construction Department, Road Division, Biharsharif, Nalanda.
9. The Accountant General (A & E) Bihar, Patna, Virchand Patel Patna, Patna
10. The Treasury Officer, Nalanda.

.... Respondents

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Appearance :

For the Petitioner : Mr. Hamendra Prasad Singh, Sr. Adv.
Mr. Arbind Kumar, Advocate.

For the Respondents : Mr. P.K. Verma, AAG-3
Mr. Ujjwal Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 04-07-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for quashing the Office Order No. 198 dated 20.10.2005; Office Order No. 195 dated 01.08.2006 and Office Order No. 313 dated 15.12.2006 whereby and whereunder departmental proceeding was initiated against the petitioner on framing charges and supplementary charges (Annexures- 8, 18 and 19 respectively).



3. Mr. Hamendra Prasad Singh, learned senior counsel appearing on behalf of the petitioner, submits that the impugned orders are ex-facie, illegal and unsustainable. It is stated that the petitioner superannuated on 31.01.2002 from the post of Junior Engineer in the office of Executive Engineer, Road Division, Road Construction Department, Bihar Sharif. The charges and supplementary charges against the petitioner clearly demonstrate that the same relate to events more than four years prior to the date of initiation of departmental proceedings and hence the entire proceedings cannot be entertained in view of the bar contained in Rule-43(b) Proviso-(ii) of the Bihar Pension Rules.

4. Learned counsel for the respondents however, at this stage, raises a preliminary objection that the writ petition itself is not maintainable in view of the fact that the petitioner had approached this Court earlier in C.W.J.C. No. 1071 of 2008 for the identical relief. On a written slip filed before this Court, the petitioner was permitted to withdraw the writ petition which was accordingly disposed of by order dated 23.09.2008 (Annexure-25).

5. Learned counsel for the petitioner fairly accepts that C.W.J.C. No. 1071 of 2008 had been filed for the same reliefs as sought in the present petition. It also transpires from the order passed therein that no liberty was granted to the petitioner to approach this Court afresh. Learned counsel however points out that in the in the present writ petition, I.A. No. 4557 of 2009 was filed for assailing the office



order no. 81 dated 13.03.2009 by which the appeal of the petitioner had been rejected. I.A. No. 4557 of 2009 was allowed by this Court and directed to be treated as part of the writ petition. It is therefore submitted that this Court has allowed the present writ petition to be proceeded with.

6. Having heard the parties on the preliminary issue, I do not find any merit in the submissions of learned senior counsel for the petitioner. I.A. No. 4557 of 2009 seeking amendment of the relief by adding a prayer assailing the appellate order is not indicative of the fact that the Court has applied its mind to the maintainability of the writ petition itself. There is nothing in the record of the present case to indicate that the preliminary objection was raised so far at the instance of the respondents and hence there was no occasion for this Court to apply its mind on this aspect of the matter.

7. Considering that the earlier writ petition in C.W.J.C. No. 1071 of 2008 was allowed to be withdrawn by the petitioner without any further liberty, I hold that the present writ petition is not maintainable for the same relief.

8. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.07.2017
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