

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.968 of 2015

In
Civil Writ Jurisdiction Case No.17481 of 2014

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Anil Kumar, Son of Late Rajnath Ram, Resident of Village- Muria, P.S. Pali, District- Patna, at present as Peon, Central Building Division, Building Construction Department and deputed in the Office of Executive Engineer, Construction Division No.2, Patna and presently attached as Driver with Chief Engineer South Bihar Circle as Driver.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Building Construction Department, Government of Bihar, Vishwasharaiya Bhawan, Patna.
3. The Under Secretary to the Government, Building Construction Department, Government of Bihar, Vishwasharaiya Bhawan, Patna.
4. The Incharge Chief Engineer (South), Building Construction Department, Vishwasharaiya Bhawan, Patna.
5. The Superintending Engineer, South Bihar Circle, Building Construction Department,
6. The Executive Engineer Construction (Sanrachna) Division-2, Building, Construction Department, Patna
7. The Executive Engineer, Central Building Division, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Bishnu Kant Dubey, Advocate
For the Respondent/s : Mr. Shiv Kumar, AC to GA-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 30-10-2017

On going through the facts and circumstances of the case, we find that the writ petition in question, which was dismissed by the learned Writ Court, was filed challenging a show cause notice issued to the petitioner vide Memo. No.4793 dated 23.8.2014 whereby the petitioner was directed to show cause as to



why he should not be placed under suspension and a departmental enquiry initiated against him. The learned Writ Court refused to interfere into the matter only because a show cause has been issued, granting liberty to the petitioner to file his show cause and thereafter, if any adverse action is taken, to challenge it in accordance with law. As far as this aspect of the dispute is concerned, we see no reason to make indulgence into the matter.

However, further grievance of the petitioner, even though no specifically prayed for, seems to be that he was appointed as a Peon and with effect from the year 2011, but work of a Driver is being extracted from him without granting him salary of the aforesaid post. The respondents have denied this contention. The question as to whether the petitioner was working as a Driver after his appointment as a Peon and was entitled for any higher salary has to be considered at the first instance and decided by the departmental authorities, it is seen that the petitioner's representation in this regard has not been properly addressed.

Taking note of the aforesaid, we grant liberty to the petitioner to raise his claim for payment of salary for having worked on a higher post before the Chief Engineer, respondent No.4, who shall look into this grievance of the petitioner and



decide the claim in accordance with law by a speaking order,
within a period of two months.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.Jha/-

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