

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10865 of 2014

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Ram Dayal Paswan son of Late Mohit Paswan resident of mohalla - Chhapki Parri (Near Panchayat Bhawan), Laxmi Sagar, P.S. Darbhanga Sadar, District - Darbhanga

.. Petitioner/s

Versus

1. The State of Bihar through Secretary, Rural Works Department, Bihar, Patna
2. Secretary, Rural Works Department, Bihar, Patna
3. Special Secretary, Rural Works Department, Bihar, Patna
4. Joint Secretary, Rural Works Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harshvardhan Shivsundaram, Advocate
For the State : Mr. G.P. Ojha, GA 7
Mr. Reiya Gupta, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 08-12-2017

Heard counsel for the petitioner and counsel for the State.

A show cause was issued to the petitioner on 25.10.2010 alleging irregularity in repairing of three rural roads. The petitioner submitted his detailed response and the departmental proceedings were initiated against him under **Bihar Government Servants (Classification, Control and Appeal) Rules, 2005** (For short '**Bihar CCA Rules**'). Vide enquiry report dated 29.03.2012, the petitioner was exonerated from all the five charges that has been communicated to him vide charge memo no. 279 dated 29.03.2012. Without giving copy of second show cause or without serving the copy of the enquiry report, the disciplinary authority vide order of



punishment dated 20.06.2013, differing with the findings of the Enquiry Officer which is favorable to the petitioner, has imposed the punishment of withholding of two annual increments with non-cumulative effect upon the petitioner.

The petitioner has specifically averred in his writ petition that neither second show cause notice was given to him nor copy of the enquiry report was served on him. In fact he has placed on record the fact that pursuant to his application under 'Right to Information Act' dated 20.08.2013, he was made available a copy of the enquiry report on 8.10.2013 i.e., much after the order of punishment dated 20.06.2013. These facts have not been denied by the respondents in their counter affidavit. The only averment is that as the petitioner has been found guilty by the disciplinary authority then the department decided to punish the petitioner disagreeing with the enquiry report.

Till date the revision filed by the petitioner under Rule 24 of the Bihar CCA Rules has not been decided nor the respondents have chosen to make any submissions in their counter affidavit with respect to the pending revision.

In view of the aforesaid, the action taken against the petitioner is in gross violation of the 'Principles of Natural Justice' as also the provisions contained in Rule 18 of the Bihar CCA Rules 2005. Hence the impugned order cannot be sustained in law.



The order of punishment dated 20.06.2013 inflicting the punishment upon the petitioner issued by the Joint Secretary Rural Works Department, Bihar, Patna bearing memo No. 3540, is hereby quashed.

However, it will be open to the disciplinary authority, the respondent no. 2 to proceed afresh against the petitioner if so permissible in law after serving a copy of the enquiry report and complying with the procedure prescribed under Bihar CCA Rules 2005.

The writ petition is accordingly, allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	12.12.2017
Transmission Date	

