

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13960 of 2016

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Md. Sadique Hussain, son of Akramul Haque, resident of Village- Bahadur Ganj,
P.O.- Chikasi, P.S.- Sigori, District- Patna, Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Engineer in Chief (Madhya), Water Resources Department, Government of Bihar, Patna.
3. The Officer on Special Duty, Water Resources Department, Government of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Balmiki Nagar, District- West Champaran, Bihar.
5. The Executive Engineer, Main Western Canal Division, Balmiki Nagar, District- West Champaran, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate

For the Respondent/s : Mr. Sanjay Prasad, AC to AAG4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-06-2017

Heard Mr. Prabhat Ranjan, learned counsel appearing for
the petitioner and Mr. Sanjay Prasad, learned Assisting Counsel to
Additional Advocate General No.4 for the State.

The petitioner is aggrieved by the order of suspension
bearing Memo No.133 dated 24.1.2014, whereby in contemplation
of a departmental proceeding following detection of alleged
irregularities in execution of Gandak Project he has been put under
suspension.

Mr. Ranjan, learned counsel appearing for the petitioner
submits that a period of more than three years has passed and there
is no end to the departmental proceeding. He further invites the



attention of this Court to the notification bearing Memo No.1513 dated 26.7.2016 placed at Annexure-6 to submit that by the said notification the Executive Engineer being the part of the same very project, his suspension has been revoked and the case of the petitioner stands on identical footing.

A counter affidavit has been filed and at paragraph 10 thereof it is informed that the enquiry into the disciplinary proceeding is complete and the report was submitted on 29.1.2015 upholding the charges. A second show cause was issued to the petitioner vide letter No.2407 dated 9.11.2016. The petitioner filed his reply which was examined by the Government and prima-facie the opinion of the State Government is against the explanation given by the petitioner. It is mentioned that the Disciplinary Authority decided to award a punishment of dismissal and for which a concurrence has been sought from the Bihar Public Service Commission vide letter No.402 dated 16.3.2017 which is awaited.

Mr. Ranjan, learned counsel appearing for the petitioner submits that a period of more than three years has lapsed and merely because the Bihar Public Service Commission is sitting over the matter that the petitioner continues to be under suspension when no final order is passed on the departmental proceeding.

Having heard learned counsel for the parties and considering the stage of the departmental proceeding where even the



second show cause reply has been filed and only the final order is to be passed, the Disciplinary Authority cannot have a laid back attitude to pass final order on the proceeding in luxury simply that the Bihar Public Service Commission is not willing to express its opinion. Since the sufficient period has elapsed, even if the opinion of the Commission has not been received, the matter cannot be kept pending endlessly.

The Disciplinary Authority is thus directed to pass a final order on the disciplinary proceeding within a maximum period of six weeks from the date of receipt/production of a copy of this order failing which the order of suspension of the petitioner would stand revoked in view of the similar order having been passed in the case of the Executive Engineer.

The writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2017
Transmission Date	NA

