

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.612 of 2017

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Bisheshwar Kharwar, S/o Late Rambachan Kharwar, Resident of Village- Munsiya,
P.S. - Baghari, District - Kaimur (Bhabua).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Secretary, Department of Water Resources cum Chairman, Bihar State Construction Corporation Limited, Patna.
3. The Bihar State Construction Corporation Limited through its Managing Director at its Head Quarter at Khawaja Imli, Anisabad, Patna.
4. The Managing Director, Bihar State Construction Corporation Limited, Office at Khwaja Imli, Anisabad, Patna.
5. The Secretary, Administration, Bihar State Construction Corporation Ltd. Office at Khawaja Imli Anisabad, Patna.

.... Respondent/s

With

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Civil Writ Jurisdiction Case No. 637 of 2017

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Bikash Tiwary, S/o Late Ramdas Tiwary, Resident of Village- Ornar, P.S. -
Chainpur, District - Palamu (Jharkhand).

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Secretary, Department of Water Resources cum Chairman, Bihar State Construction Corporation Limited, Patna.
3. The Bihar State Construction Corporation Limited through its Managing Director and its Headquarter at Khwaja Imli, Anisabad, Patna.
4. The Managing Director, Bihar State Construction Corporation Limited, Office at Khwaja Imli, Anisabad, Patna.
5. The Secretary, Administration, Bihar State Construction Corporation Limited, Office at Khawaja Imli, Anisabad, Patna.

.... Respondent/s

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Appearance :

(In CWJC No.612 of 2017)

For the Petitioner/s : Mr. Dilip Kumar Jha, Adv.
Mr. Anil Kumar Choudhary, Adv.
For the Respondent-State : Mr. Deepak Sahay Jamuar, AC to AAG-4
For Respondent-Corporation : Mr. Harshwardhan Shivsundaram, Adv.

(In CWJC No.637 of 2017)

For the Petitioner/s : Mr. Dilip Kumar Jha, Adv.
Mr. Anil Kumar Choudhary, Adv.
For the Respondent-State : Mr. Akhileshwar Singh, AC to GA-2
For Respondent-Corporation : Mr. Harshwardhan Shivsundaram, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT



Date: 05-05-2017

Heard Mr. Dilip Kumar Jha, learned counsel appearing for the petitioners assisted by Mr. Anil Kumar Choudhary in both the writ petitions, Mr. Harshvardhan Shivsundaram, learned counsel appearing for the Bihar State Construction Corporation and Mr. Deepak Sahay Jamuar, learned Assisting Counsel to Additional Advocate General No.4 and Mr. Akhileshwar Singh, learned Assisting Counsel to Government Advocate No.2 for the State in the respective writ petitions.

Since the issues raised in the two writ petitions are same hence these matters have been heard analogous and with the consent of the parties are being disposed of at the stage of admission itself.

The petitioners are aggrieved by the office order bearing letter no.28 dated 14.10.2015 of the Managing Director, Bihar State Construction Corporation Limited, Patna, whereby their services have been retrenched.

The short submission made by learned counsel for the petitioners is that although the order conceives of retrenchment after following the procedures underlying section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') but the fact is that no such procedure has been followed.

Mr. Shivsundaram, learned counsel appearing for the



Corporation while raising objections to the maintainability of the writ petitions in view of the remedy available under ‘the Act’, is not in a position to controvert the argument advanced by Mr. Jha, learned counsel appearing for the petitioners that the procedure required to be followed under section 25F of ‘the Act’ has not been followed in the case of the petitioners.

In view of the uncontested position discussed above, the order impugned bearing letter no.28 dated 14.10.2015 of the Managing Director, Bihar State Construction Corporation Limited cannot be upheld and is accordingly quashed and set aside. However, this order would not preclude the Managing Director of the Corporation to proceed afresh but in accordance with law.

The writ petitions are allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.05.2017
Transmission Date	NA

