

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17889 of 2008

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Bal Govind Sinha, son of Late Gosai Sinha, R/o B/87, Ashokpuri (Khajepura), P.O. Bihar Veterinary College, Patna – 14, Retd. Executive Engineer (Civil), Bihar State Electricity Board, Patna.

.... Petitioner/s

Versus

1. Bihar State Electricity Board through its Secretary, Vidyut Bhawan, Bailey Road, Patna,
2. Sri Arbind Kumar Singh, the then Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna,
3. The Chairman (Sri Sapan Mukherjee), Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna,
4. The Joint Secretary (Sri N.P. Yadav), Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ram Hridya Prasad and
Mr. D.K. Lal, Advocates.

For the Respondent/s : Mr. A.K. Ojha, S.C. and
Mr. Ashok Kr. Karna, A.C. to S.C.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL ORDER

5 02-02-2017 Heard Sri Ram Hridya Prasad, learned counsel appearing for the petitioner, and Sri Ashok Kumar Karna, A.C. to S.C. (Electricity Board) Sri Anand Kumar Ojha.

The petitioner filed this Writ Petition confining his reliefs to quash the order as contained in Resolution No. 532 dated 08.08.2008, i.e., (A) the order of punishment of reduction of 2% pension and (B) the petitioner will not get anything other than subsistence allowance already paid to him during the period of suspension.



The petitioner was posted as Executive Engineer (Civil) in the Office of the General Manager-cum-Chief Engineer, South Bihar Area Electricity Board in the year 1988. A tender for work of construction of 33/11 KVA Power Sub-station near Commissioner's compound, Ranchi was invited. The General Manager-cum-Chief Engineer finalized the tender with one S.K. Pathak and agreement was held on 27.05.1988 for construction work of the building. The building was constructed under the supervision of the department and the supervisory work was handed over to the Electrical Executive Engineer of the Bihar State Electricity Board (hereinafter referred to as 'the Board' for the sake of brevity) on 30.11.1988. After lapse of about seven years and seven months, one vigilance enquiry without any complaint was instituted and it was found that substandard materials were used in the construction of the building. One Vigilance P.S. Case No. 13/1996 was registered against the petitioner and others.

The Board vide its Resolution No. 332 dated 11.04.1998 initiated a departmental proceeding. After completion of the enquiry, the Enquiry Conducting Officer submitted report finding the charges levelled against the petitioner not proved but second show cause notice was issued and the petitioner was



inflicted punishment. The petitioner moved this Court in CWJC No. 3410/2005 and this Court vide order dated 30.04.2007 passed in the aforesaid case quashed the order of punishment on the ground that the notice was composite one and the same also stated about the pre-occupied mind of the disciplinary authority in inflicting the punishment and the matter was remitted to the disciplinary authority. Thereafter, the disciplinary authority served the point of difference and show cause and after hearing the case of the petitioner, the disciplinary authority vide Resolution No. 814 dated 14.07.1999 withheld 5% pension of the petitioner besides the punishment that the petitioner would not get anything except subsistence allowance already paid to him during the suspension period. The petitioner filed Mercy Appeal and vide Resolution No. 795 dated 28.09.2002, the punishment was reduced to withholding of 2% pension and the remaining punishment remained intact.

Learned counsel for the petitioner submits that the order of punishment is based on no evidence. The Enquiry Conducting Officer, in his finding, categorically found that no charge was proved against the petitioner with regard to any substandard materials used in construction of the building but the disciplinary authority relied on the report of the expert and



inflicted punishment.

I find no force in the submission of the learned counsel for the petitioner after perusal of the order impugned on the ground that the disciplinary authority has very categorically, in his point of difference served on the delinquent, found that during the departmental proceeding the expert has opined about the substandard materials used in the construction of the building. This Court in writ jurisdiction does not sit in appeal to look into insufficiency of the evidence. In writ jurisdiction even if there is scant evidence to come to a conclusion, this Court in writ jurisdiction should be loath to interfere with the finding of the disciplinary authority. Accordingly, I do not find any merit in this Writ Petition and the same is dismissed.

If at all the petitioner is aggrieved with the order of the Board, he may file a representation before the authority concerned with regard to granting him promotion with effect from the due date and the authority shall consider the same without being prejudiced by any order of this Court and shall dispose of the representation of the petitioner, preferably within six months.

(Prabhat Kumar Jha, J)

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