

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.947 of 2016
IN
Civil Writ Jurisdiction Case No. 6082 of 2015**

- =====
1. The State of Bihar
 2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
 3. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
 4. The Deputy Secretary, General Administration, Government of Bihar, Patna.
 5. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
 6. The Deputy Secretary, Rural Development Department, Government of Bihar, Patna.
 7. The Joint Secretary, Rural Development Department , Government of Bihar, Patna.
 8. The Commissioner, Darbhanga Division cum Conducting Officer, Darbhanga.
 9. The District Magistrate, Samastipur.

.... Appellant/s

Versus

1. Anil Kumar, Son of Late Dhaneshwar Das, Resident of Village- Bishnupur, Police Station- Begusarai, District- Begusarai, at present posted on the post of Executive Officer, Nagar Parishad, Buxar, District- Buxar.
2. The Secretary, Bihar Public Service Commission, Patna

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr.

For the Respondent/s : Mr. Indu Bhushan, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 23-08-2017

None appears for the appellants. None has been appearing for last more than two occasions and, therefore, we are constrained to proceed in the matter.

We have heard learned counsel for the respondent and



gone through the record. Delay of 42 days in filing of the appeal is condoned and I.A. No.3533 of 2016 is allowed and disposed of.

Challenge in this appeal filed by the State Government has been made to an order dated 6.1.2016 passed by the learned Writ Court in C.W.J.C. No.6082 of 2015. The writ petition was preferred against an order of punishment issued to the respondent on 10.9.2014 withholding four increments with cumulative effect and suspension has been confirmed holding that he shall not be entitled to anything except for subsistence allowance already paid.

We find that the learned Writ Court summoned the original record of the departmental proceedings. We have gone through the records. Finding that the enquiry has been conducted in total violation to the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, no enquiry in the eye of law has been conducted and finding the entire proceedings vitiated due to non-compliance of the statutory provision, has interfered into the matter. In the memorandum of appeal, except for contending that action has been taken after following due process of law and the learned Writ Court has not adverted to consider the questions properly, no substantial ground has been made out warranting re-consideration.

Once on scrutiny of the original records the learned



Writ Court records a finding that the enquiry has not been conducted in accordance with the statutory requirement, even copy of the enquiry report has not been handed over to the delinquent employee, and has interfered into the matter, we see no reason to make indulgence into the matter.

The appeal is accordingly dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.8.2017
Transmission Date	N/A

