

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17269 of 2010

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KRISHNA KUMAR GUPTA S/O LATE SHEO SAH R/O VILL.- CHATIYA,
VIA + P.S.- MALAHI, DISTT.- EAST CHAMPARAN, AT PRESENT
POSTED AS JUNIOR ENGINEER, RURAL WORKS DEPARTMENT,
WORKS DIVISION-II, MUZAFFARPUR

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. COMMISSIONER-CUM-SECRETARY ROAD CONSTRUCTION
DEPARTMENT, VISHWESHWARAIYA BHAWAN, BAILEY ROAD,
PATNA
3. ENGINEER-IN-CHIEF - CUM - ADDITIONAL COMMISSIONER - CUM -
SPECIAL SECRETARY ROAD CONSTRUCTION DEPARTMENT,
VISHWESHWARAIYA BHAWAN, BAILEY ROAD, PATNA
4. ENGINEER-IN-CHIEF ROAD CONSTRUCTION DEPARTMENT,
VISHWESHWARAIYA BHAWAN, PATNA

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukul Sinha
For the Respondent/s : Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 23-08-2018

The present writ petition has been filed for quashing the order dated 14.05.2010 by which the petitioner has been awarded punishment of stoppage of two annual increment with cumulative effect. The petitioner has further prayed for quashing the appellate order dated 30.08.2010.

2. The brief facts of the case are that a charge-sheet was issued to the petitioner making certain allegations and departmental proceeding was initiated vide memo dated 19.02.2009. The inquiry officer had held the inquiry, wherein the petitioner had participated, whereafter the inquiry officer



submitted an inquiry report dated 14.05.2009 whereby and whereunder the petitioner was exonerated of all the charges and in fact, none of the charges was found to have been proved. Thereafter, a second show cause notice dated 29.01.2010 was issued to the petitioner and then, the order of punishment dated 14.05.2010 was passed. The petitioner had filed an appeal against the said order dated 14.05.2010 which was dismissed by an order dated 30.08.2010.

3. The learned counsel appearing for the petitioner has submitted that no reason whatsoever has been furnished in the second show cause notice for the difference of opinion of the disciplinary authority with that of the inquiry officer, hence, on this ground alone, the order of punishment is fit to be set aside.

4. Per contra, the learned counsel for the Respondents has submitted that the said second show cause notice has been issued wherein it has been stated that the petitioner had not produced the measurement book of Project No. 53 of 2003-2004 and had not made entries in the measurement book pertaining to Project No. 64 of 2004-2005, hence, the order of punishment dated 14.05.2010 is justified.

5. I have heard the learned counsel for the parties and I find that the disciplinary authority has not furnished any reason for



differing with the opinion of the inquiry officer while issuing the second show cause notice dated 29.01.2010, hence, on this ground alone, the order of punishment dated 14.05.2010 is perverse and fit to be set aside. Reference in this connection be had to a judgment reported in **(2013) 7 SCC 251 (S.P.Malhotra Vs. Punjab National Bank and Ors)**.

6. For the reasons mentioned hereinabove, the order dated 14.05.2010 whereby and whereunder the punishment has been inflicted upon the petitioner herein is set aside. Since the order of punishment has been set aside, consequently, the appellate order dated 30.08.2010 is bound to fall, hence, is also quashed.

7. The present writ petition is allowed.

8. The petitioner is directed to be paid the consequential benefits within a period of eight weeks from today.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.08.2018
Transmission Date	NA

