

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.935 of 2015

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Chandrakant Chaudhary Son of Late Hira Lal Chaudhary Resident of Village -
Khaira Dorain, Police Station - Tarapur, District - Munger.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resource Department,
Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Director, Land Acquisition & Rehabilitation, Water Resource Department,
Govt. of Bihar, Patna.
4. The Special Land Acquisition Officer, Gandak Project Muzaffarpur, District -
Muzaffarpur.
5. The Special Land Acquisition Officer, Patna Flood Control Project, Anisabad,
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. S.K. Ghosh, Advocate Mr. Hari Shankar Roy, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG 12 Ms. Nutan Sahay, AC to AAG 12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 20-08-2018

Heard learned counsel for the petitioner and the
respondent State.

2. Short submission raised by the learned senior counsel
for the petitioner is that the entire proceeding conducted against the
petitioner is contrary to the procedure prescribed under the Bihar
Government Servants (Classification, Control & Appeal) Rules, 2005
(hereinafter referred to as 'the Bihar CCA Rules, 2005'). The
procedural lapse has occasioned grave miscarriage of justice and



violation of Principles of Natural Justice. He has drawn attention of the Court towards the charge memo. It is pointed out that the same does not contain any list of evidence or witness on the basis of which the allegation against the petitioner of taking bribe are sought to be sustained in the proceedings.

3. Referring to the proceedings before the Enquiry Officer, it is pointed out that other than giving his own statement/opinion, the Presenting Officer has not produced any evidence or witness in support of the allegations. The Enquiry Officer has specifically noted that other than statement of Presenting Officer, there is no evidence whatsoever available in the office. In spite of the aforesaid lapse striking at the root of fairness in the proceedings, the Disciplinary Authority has proceeded to award the severe punishment of termination to the petitioner under Rule 14(11) of the Bihar CCA Rules, 2005.

4. When the petitioner had approached this Court earlier by filing C.W.J.C. No. 6851 of 2014, this Court had allowed the petitioner to avail the remedy of appeal provided under the Rule. Specific direction is contained in the order dated 26.06.2014.

5. The aforesaid procedural infirmities which have caused a grave prejudice to the petitioner and has resulted in severe punishment of termination to the petitioner, was required to be



examined by the Appellate Authority. The same was not done. This Court in the instant proceeding had allowed the Appellate Authority several adjournments after order dated 25.06.2018 to consider the petitioner's appeal. Petitioner in his appeal has taken a plea regarding the proceedings were based on no evidence and without making out any charge, other than the petitioner's arrest in the Vigilance case. Issues raised were required to be considered by the Appellate Authority.

6. The respondent State has placed on record the Appellate order dated 20.07.2018, during pendency of the instant proceedings issued by the Principle Secretary in the Water Resources Department, Government of Bihar. The same is a cryptic order in which the Disciplinary Authority has failed to consider the specific pleading raised by the petitioner with respect to the proceedings being vitiated on account of no evidence being produced to sustain the charge and other procedural infirmity as noticed hereinabove. The Appellate Authority has passed a cryptic order wherein no reason whatsoever has been assigned. The counsel for the State is also not in a position to defend the order on account of violation of the procedure as noticed herein above.

7. In view of the position emerges from the order of the Disciplinary Authority as well as the Appellate Authority dated



21.04.2014 and 20.07.2018 respectively, this Court considers that interest of justice would be served if the Disciplinary Authority re-examines the issue from the stage after submission of the enquiry report. The matter is therefore, remanded to the stage after submission of the enquiry report. Disciplinary Authority would be obliged to conclude the proceedings taking into consideration the petitioner's response to the second show cause dated 14.07.2014 in accordance with law by a reasoned and speaking order treating the petitioner as under suspension.

8. The order of the Disciplinary Authority as well as the Appellate Authority dated 21.04.2014 and 20.07.2018 respectively, are hereby quashed.

9. In view of the liberty as granted hereinabove the Disciplinary Authority would be obliged to conclude the issue and pass a final order there upon within a period of three months from the date of receipt/production of a copy of this order.

10. Entitlement of the petitioner would abide by the final decision taken by the Disciplinary Authority.

11. Writ petition stands allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

