

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1620 of 2015

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Mithilesh Prasad Singh son of Late Yamuna Singh, resident of village-
Khojagachhi, PS- Barbigha, District- Sheikhpura

.... Petitioner/s

Versus

1. The Bihar Police Building Construction Corporation, PO- Bihar Veterinary College, Patna
2. The Director General-cum-Chairman-cum- Managing Director, Bihar Police Building Construction Corporation, BMP-5 Campus, Patna
3. The Secretary, Bihar Police Building Construction Corporation, Patna
4. The Accountant General, Patna, Birchand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Kumar, Advocate

For the Respondent/s : Mr. Prasoon Sinha, Advocate

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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. The issue of law raised by counsel for the petitioner in this case is that the order of punishment has been inflicted upon the petitioner whereby the respondent no. 2 has retained/adjusted the salary of 369 days and earned leave under order dated 07-08/02.2012.

3. The petitioner was an employee of the Bihar Police Building Construction Department. The admitted position in law is that if an order is to be passed against an employee, post retirement visiting with any penal consequences, the same shall be in accordance



with Rule 43(b) of the Bihar Pension Rules.

4. Opportunity was granted under earlier order dated 16.07.2018 so as to enable the respondents to place on record their supplementary counter affidavit to justify issuing order of punishment about roughly one and half years after the petitioner's retirement without following the procedure prescribed under Rule 43(b) of the Bihar Pension Rule. The supplementary counter affidavit filed, does not deal with the said issue.

5. In view of the admitted position the order dated 07-08/02.2012 awarding the petitioner punishment, passed after the petitioner's retirement on a departmental proceedings without following the procedure in this respect contained in the Bihar Pension Rules, is unsustainable. The master servant relationship snapped way back in 2010. The law is well settled in this regard that if any order is to be passed, the same shall be done in accordance with provisions contained in the Bihar Pension Rules and limited to withholding of his pensionary benefits. The same has not been done. The impugned order dated 07-08/02.2012 denying the petitioner salary and earned leave is unsustainable in law and is hereby quashed.

6. Writ petition is allowed to the extent indicated herein above.

7. As a result of quashing of the impugned order, the



petitioner would be entitled to his consequential benefits within a period of three months.

8. Counsel for the petitioner has drawn attention of this Court towards I.A. No. 4956 of 2018 whereby the order dated 09.08.2012 giving effect to the order of punishment has been challenged. It is needless to say that since the order of punishment itself has been set aside, the order dated 09.08.2012 of the Administrative Officer in the respondent Corporation will collapse and cannot be sustained.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

