

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3668 of 2006

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Nageshwar Prasad Singh son of Late Bisheshwar Singh, Resident of Village-Dihari,
Police Station Kashichak, District Nawada.

.... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
2. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ravindra Nath Dubey
: Ms. Poonam Kumari
For the Respondent/s : Mr. (SC1)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 28-08-2018

The present writ petition has been filed for quashing the order dated 08.09.2003, whereby and where under the petitioner has been inflicted the punishment of recovery of sum of Rs.1,28,008.25 from the salary of the petitioner.

The short facts of the case are that the learned Division Bench of this Court by an order dated 15.02.2000 passed in L.P.A. Nos. 177 of 1998, 178 of 1998 and 179 of 1998, had directed the authority to make enquiry as to who was responsible for inordinate delay in filing the appeal after a lapse of limitation of 145 days and to recover the loss caused to the public exchequer from the person found responsible for the same. On the basis of the said order of this Court, proceedings were initiated



against the petitioner herein as well and thereafter it appears that the Enquiry Officer had submitted an enquiry report finding the petitioner to be guilty and than order of punishment dated 08.09.2003 was passed.

The learned counsel for the petitioner has submitted that ultimately the matter was examined by the learned Division Bench and the learned Division Bench by an order dated 15.02.2000 passed in L.P.A. Nos. 177 of 1998, 178 of 1998 and 179 of 1998 had held that there was no merit in the appeal and the compensation awarded was reasonable. It is thus the contention of the learned counsel for the petitioner that since there was no loss caused to the exchequer, the respondent authorities were not justified in directing for recovery of any amount from the salary of the petitioner inasmuch as the learned Division Bench by the aforesaid orders dated 15.02.2000 had directed to recover the loss caused to the public exchequer. However, in the present case, since the L.P.As have been dismissed on merits, it cannot be said that any loss was caused to the exchequer on account of late filing of the L.P.A.s. The short ground taken by the learned counsel for the petitioner is that the petitioner was not supplied a copy of the enquiry report and in fact he was also not given any show cause notice, hence on account of procedural irregularities, the order of punishment dated 08.09.2003 is perverse and is fit to be set aside.



I have heard the learned counsel for the parties and perused the material on records and I find that no loss has been caused on account of late filing of the L.P.As, since the L.P.As have been dismissed on merit, hence the order of the learned Division Bench would not result in penalizing the petitioner herein. Secondly, the proper procedure required to be followed before infliction of punishment on the petitioner herein has also not been followed as is apparent from the submissions made by the learned counsel for the petitioner, hence on this ground also the order of punishment dated 08.09.2003 is fit to be set aside.

For the reasons mentioned herein above, the writ petition is allowed. The order of punishment dated 08.09.2003 is set aside. Consequently, the appellate order is also bound to fall, hence the appellate order dated 17.09.2004 is also quashed.

(Mohit Kumar Shah, J)

S.Sb/-

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Transmission Date	

