

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 7871 of 2014

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Raghunath Prasad Son of late Bishwanath Ram Resident of Village - Masadanpur (Anadipur), P.O. - Kashdih, Via and P.S. - Kahalgaon, Dist - Bhagalpur at present posted as Technical Adviser, Road Circle, Road Construction Department, Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Secretary, Road Construction Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Road Construction Department, Govt. of Bihar, Patna.
5. The Deputy Secretary (Vigilance), Road Construction Department, Govt. of Bihar, Patna.
6. Addl. Departmental Inquiry Commissioner, Bihar State Financial Corporation, Frazer Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Satish Chandra Mishra, Md Nurul Hoda,
Advocate

For the S t a t e : Mr Madhaw Prasad Yadav, GP XXIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-08-2018

Heard the learned counsel for the petitioner and the respondent-State.

2 Learned counsel for the petitioner submits that though the petitioner has submitted the medical advice which required him to be in bed rest, the same has not been considered properly by the authorities and he has been visited with the punishment bringing him at the lowest grade for the post of Executive Engineer and the decision has been taken to post him on non-works post for the entire



remaining service career. The decision regarding his entitlement for the period of suspension between 06.08.2008 to 04.03.2009 is to be taken separately. Learned counsel for the petitioner submits that such a severe punishment has been inflicted upon the petitioner though the lapse alleged is absence for a period of six months.

3 Whether the petitioner was entitled to be absent on account of his illness is an issue which was required to be considered by the authorities having due regard to the medical prescription issued by the Government Tibiya College. The same cannot outrightly be rejected as there is no presumption that prescriptions issued by the said College are not to be relied upon. The respondents, on the basis of such an attitude, have proceeded to inflict the punishment against the petitioner visiting him with such severe consequence. It is submitted by the petitioner's learned counsel that the punishment inflicted upon the petitioner is grossly disproportionate to the charges levelled against him having regard to the fact that there were medical prescriptions of a duly recognized Government College in his favour which required him to be in bed rest.

4 Since the issue has not been considered on this ground by the authorities, this Court would consider it appropriate that the petitioner may file his review in the form of a memorial under the provisions of Rule 24 (2) of the Bihar Government Servants



(Classification, Control & Appeal) Rules, 2005.

5 In the event such a review is filed, the Authority would be obliged to consider the petitioner’s plea after having due regard to the medical prescriptions submitted by the petitioner.

6 Petitioner would be at liberty to make his application within four weeks from today.

7 In the event, such an application is filed, the Authority would be obliged to consider the same and dispose it of by a reasoned and speaking order within a period of eight weeks thereafter.

8 The writ petition is disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.08.2018
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