

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1430 of 2015

IN

Civil Writ Jurisdiction Case No. 4992 of 2003

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Ram Kishore Pandey, son of Late Kapildeo Pandey, resident of At and P.S.-
Mokama, District- Patna

.... Petitioner-Appellant/s

Versus

1. Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna through its Secretary
2. Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
3. Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna

.... Respondents- Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjeev Kumar Mishra
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate
Mr. Vijay Kumar Verma
Mr. Akhileshwar Singh

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 30-04-2018

Seeking exception to an order passed by the learned Writ
Court on 25.06.2015 in CWJC No. 4992 of 2003 this appeal has
been filed under Clause 10 of the Letters Patent.

The petitioner-appellant was working as an Executive
Engineer has now retired and the writ petition in question was filed
in the year 2003 challenging an order of punishment dated
25.10.2002 by which punishment of entry of censure in the ACR of
the petitioner for the year 2001-2002 was imposed and it was further



held that for the period under suspension the petitioner would only get subsistence allowance and nothing more. However, the entire period of suspension was treated to be period spent on duty for the purpose of grant of retrial benefits and other service due.

It was the case against the petitioner that while working as an Executive Engineer he had demanded bribe from various villagers for the purpose of providing transformer and power connection to the villagers. On failure of the villagers giving bribe the petitioner and other officers are said to have refused to granting connection to the villagers. Even though in the departmental enquiry conducted the charge of demanding bribe was not found proved but dereliction of duty in providing electrical energy to the villagers was found proved. The petitioner challenged the same and the Writ Court dismissed the writ petition by the order impugned herein.

It is now canvassed before us that for the same set of allegations apart from being prosecuted criminally the petitioner and the Assistant Engineer were proceeded departmentally. In that case the Assistant Engineer/Junior Engineer and other officials have been exonerated of the charges and have also been acquitted in the criminal case as is evident from Annexure-1 to the supplementary affidavit filed by the appellant acquitting him in Cr. Appeal (Single Judge) No. 391 of 2014 by a detailed order passed on 16.09.2016. It



is the case of the petitioner that once he has been acquitted of the criminal charges and when the Junior Engineer and other officials have been exonerated of the charges by the appellate authority the petitioner is also entitled to similar benefit.

We have considered the contentions advanced on behalf of the appellant and have taken note of the submission in this regard made before the learned Writ Court and the finding recorded by the learned Writ Court with regard to the charges in question. The learned Writ Court from paragraph-6 to paragraph-8 of the order impugned herein dealt with the issue in the following manner:-

“6. In spite of valiant submission put up by the learned senior counsel, the Court is not enthused to come to any contrary finding against the decision of the disciplinary authority. Least of punishment has been imposed. If the petitioner was still in service this Court would have surely directed enhancement of punishment and re-consideration of the punishment.

7. Counsel for the petitioner tries to draw similarity as well as advantage from an order contained in Annexure-23 and Annexure-24. His submission is that for the same set of charges, Junior Engineer was punished but he was exonerated.

8. The fact which may have weighed in favour of the said petitioner is not seen by this



Bench from the record as such. In view of the same, there cannot be equality in law of the kind which he is looking for. That facts speak for themselves. The responsibility of the petitioner was much higher and he was the authority in command. He cannot be equated with a Junior Engineer because the buck for such decision-making stops at the table of the Executive Engineer. The demand for bribe is primarily against him.”

Taking note of the aforesaid factors and the finding recorded by the Enquiry Officer to show that the petitioner as an Executive Engineer did not discharge his duties in providing electrical energy to the villagers, we see no reason to interfere into the matter. Merely because subsequently in the departmental enquiry the petitioner has been exonerated of the charges comparison and the plea of discrimination raised by the petitioner with regard to the punishment imposed upon him vis-à-vis the Junior Engineer cannot be allowed. The issues have been considered by the learned Writ Court as indicated hereinabove. Taking into consideration the totality and the facts and circumstances of the case and the post and position of the appellant interference into the order of the learned Single Judge is not called for.

Accordingly, finding no error in the order of the learned



Single Judge we see no reason to make any indulgence into the matter and dismiss the appeal.

(Rajendra Menon, CJ)

(Sanjay Kumar, J)

mr.l./-

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