

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2552 of 2015

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Mohammad Moizuddin Son of Late Farhat Hussain Resident of Mohalla - Sheikh Alam Chak, P.O- and P.S- Jehanabad and District - Jehanabad, at present residing C/o Aftab alam Police Sports Asoana More, P.O - D.G. College , Raja Bazar and District - Patna - 800014.

.... Petitioner/s

Versus

1. The Bihar State Electricity Board Bidut Bhawan, Patna to its Secretary.
2. Secretary, Bihar State Electricity Board, Bidhut Bhawan.Patna.
3. General Manager (Human Resources/Administration) South Bihar Power Supply Company Limited, Registered Officer, Bidhut Bhawan, Bailey Road, Patna - 800021.
4. Deputy General Manager (H.R) South Bihar, Power Supply Company Limited, Patna, Registered officer, Bidhut Bhawan, Baily Road, Patna -800021. null null
5. Joint Secretary, General Administration Department, Bidhut Bhawan, Patna- 800021.
6. Superintending Engineer (Rted)-cum -Inquiry Officer, Bidhut Bhawan, Bailey Road, Patna - 800021.
7. Executive Engineer, Bihar State Electirc Supply, Sub- Division, Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mohammed Abu Haidar, Advocate
For the Respondent/s : Mr. A.K. Ojha, SC
Mr. A.K. Karna, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 16-07-2018

Heard learned counsel for the petitioner and the respondent State.

2. The short point raised by the counsel for the petitioner is that without affording due opportunity to him the order of punishment dated 30.09.2014 has been passed under memo no. 1916/1917 by the respondent General Manager (Human



Resources/Administration).

3. The second show cause was issued to the petitioner after submission of the enquiry report, soliciting the petitioner's comment on 02.12.2013 and 12.09.2013 by the General Manager (Human Resources/Administration) under memo no. 1914 and 1306 respectively.

4. Counsel for the petitioner relying upon Annexure 12 which is his response dated 07.01.2014 to the second show cause which appears to have been received by the petitioner's counsel on the same date, has submitted that his response has not been considered by the Disciplinary Authority while issuing the punishment order dated 30.09.2014. The issue is therefore, very limited for consideration that whether the Disciplinary Authorities could have proceeded to award the punishment without considering the petitioner's response dated 07.01.2014.

5. The order of punishment dated 30.09.2014 shows no consideration of the petitioner's response dated 07.01.2014. In the counter affidavit filed in the instant proceedings also other than statement that the petitioner has not responded, nothing has been stated. The stand taken in paragraph 14 is as follows:

“There was sufficient ground to assume that the writ petitioner was not submitting the reply intentionally just to delay the process.”



6. Whether the respondents proceeded to award such a penalty upon the petitioner on the basis of assumption and without considering his defence, is an issue which must be decided in favour of the petitioner.

7. It is a basic requirement of the procedure that his response to second show cause was required to be considered before passing the impugned order dated 30.09.2014. Statements made in the counter affidavit, and the record of the proceedings annexed to the counter affidavit reveals that same has not been considered, the order of punishment dated 30.09.2014 is unsustainable in law and is hereby quashed.

8. The respondent authorities should consider the petitioner's response dated 07.01.2014 and pass a reasoned and speaking order in accordance with law within a period of 8 weeks from the date of receipt/production of a copy this order.

9. Entitlement of the petitioner will abide by the final adjudication of the Disciplinary Authority in terms of this direction.

10. The writ petition is allowed to the extent indicated hereinabove.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

