

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1540 of 2017

In
Civil Writ Jurisdiction Case No.3015 of 2014

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1. The State of Bihar.
 2. The Secretary, Road Construction Department, Bihar, Patna
 3. The Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna

... .. Respondent- Appellant/s

Versus

Sunil Kumar Suman, Son Of Sri Ramdeo Paswan, Resident Of 302 (A), Maha Lakshmi Apartment, East Boring Canal Road, P.S.- Budha Colony, Patna.

... .. Petitioner-Respondent/s

Appearance :

For the Appellant/s : Mr. Dinesh Maharaj (Ac To Aag 11)
For the Respondent/s : Mr.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-08-2018

The learned Writ Court has found that against the writ petitioner-respondent herein and one Abdul Rab, Junior Engineer for the same set of acts of omission and commission, departmental proceedings were held and in the case of Abdul Rab (CWJC No.2918 of 2014), the learned Writ Court found that merely on account of dereliction on duty and on a negligent way of dealing with the work, punishment cannot be imposed as the same does not amount to misconduct in view of the law laid down by the Hon'ble Supreme Court in the case of **Union of India v. J. Ahmad, reported in (1979) 2 SCC 286**. Finding that the case of the present writ petitioner and Abdul Rab to be identical in nature,



in the case of the present writ petitioner also with regard to three allegations, first two allegations were found to be not established by the enquiry officer. The enquiry officer only held that the petitioner did not carry out the inspection in the desired manner and has derelicted in performing his duty, has allowed the writ petition on the ground that similar action taken against Abdul Rab has been quashed by this Court.

It is an admitted position that in the case of Abdul Rab, the order passed by the Writ Court has been implemented and only in the case of the present petitioner on account of the fact that he is an Assistant Engineer, the impugned order is challenged. However, the fact remains that the enquiry officer has held that the writ petitioner could have performed better in completion of the work and did not find him guilty of any misconduct. It is only an observation by the enquiry officer that the petitioner could have performed better in completing the work and there is no finding that he was guilty of any misconduct.

Taking note of all these circumstances, if the learned Writ Court has interfered into the question of stopping one increment with non-cumulative effect, we see no reason to make any indulgence into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Sunil/-

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