

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1349 of 2017

In

Civil Writ Jurisdiction Case No.5949 of 2016

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1. Bihar State Power (Holding) Company Limited, through its Deputy General Manager (HR/Adm.), Vidyut Bhawan, Bailey Raod, Patna.
 2. Chairman-cum-Managing Director, Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
 3. Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
 4. The General Manager (HR/Adm.), Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
 5. The General Manager (HR/Adm.), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Appellant/s

Versus

Mokhtar Ahmad Sakib S/o Late Jalal Ahmad, resident of Village+Post-Mohamadpur Koari via- Waini, P.S.- Pusa Road, District- Samastipur- 848131 (Bihar).

... .. Respondent/s

with

Letters Patent Appeal No. 1350 of 2017

In

Civil Writ Jurisdiction Case No.4392 of 2016

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1. The Bihar State Power (Holding) Company Limited, through its Deputy General Manager (Human Resource/Adm.), Vidyut Bhawan, Bailey Road, Patna.
 2. The Chairman-cum-Managing Director, Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
 3. The Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
 4. The General Manager (Human Resource/Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
 5. The General Manager (HR/Adm.), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Appellant/s

Versus



Chandrabhushan Choudhary, Son of Late Ram Nandan Choudhary, Resident of Gandhi Colony, Lane No.3, Pakharia, Pir, P.O.- Ramana, P.S.- Sadar, District- Muzaffarpur.

... .. Respondent/s

with
Letters Patent Appeal No. 1348 of 2017
In
Civil Writ Jurisdiction Case No.557 of 2017

1. The Bihar State Power (Holding) Company Limited, through its Deputy General Manager (Human Resource/Adm.), Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman-cum-Managing Director, Bihar State Power (Holding) Company Ltd. Vidyut Bhawan, Bailey Road, Patna.
3. The Managing Director, North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
4. The Managing Director, Bihar State Power Transmission Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The General Manager (Human Resource/Administration), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
6. The General Manager (H.R/Adm.), North Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Appellant/s

Versus

Akhilesh Prasad S/o Late Shivanand Lal Das, resident of Vill- Jagatpur, P.O.- Barail, P.S.- Supaul, Distt- Supaul- 852113.

... .. Respondent/s

Appearance :

(In Letters Patent Appeal No. 1349 of 2017)

For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Mahesh Kumar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate

(In Letters Patent Appeal No. 1350 of 2017)

For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Mahesh Kumar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate

(In Letters Patent Appeal No. 1348 of 2017)

For the Appellant/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Mahesh Kumar, Advocate

For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Advocate



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)**

Date : 09-10-2018

All the three analogous appeals are being disposed off by this common judgement.

In all these appeals, the appellant is the Bihar State Power Holding Company Limited and its functionaries and the respondents are the employees, who have been dismissed from service.

The appellant/Bihar State Power Holding Company Limited is aggrieved by the composite judgement passed by a learned Single Judge of this Court in C.W.J.C. Nos. 557 of 2017; 4392 of 2016; and 5949 of 2016, whereby the dismissal orders against the respondents herein have been quashed and set aside and the respondents-servicemen have been reinstated on their respective posts with all consequential benefits.

Records reveal that respondent/Akhilesh Prasad, who was initially appointed as Store Assistant, was posted as a Store Verifier at the Central Store, Muzaffarpur. The respondent/Chandrabhushan Choudhary, who too was appointed as Store Assistant, was serving the appellant at the relevant time at the Electric Central



Stores, Muzaffarpur. The respondent/Mokhtar Ahmad Sakib, another Store Assistant, was also posted at Central Store, Muzaffarpur.

As against respondent/Akhilesh Prasad, charge was framed for having conspired with the Store Assistant in cutting of 16 kms of AAAC Squirrel Conductor Wires weighing 970 kgs., which had led to financial losses to the Board. With respect to the other respondents, apart from being responsible for causing losses to the Company, they were also charged for keeping excess materials in the Store and some relevant materials were found short.

All the respondents were visited with departmental enquiry and were also served with second show-cause notice and thereafter dismissal orders were passed by the Disciplinary Authority, which was affirmed by the Appellate Authority.

We have perused the enquiry report with respect to all the respondents and have found that the charges levelled against the respondents have not been substantiated. The charge of causing financial losses to the Board has not been proved, as no evidence has been led with respect to the specific role played by the respondents as well as no effort has been made for quantifying the losses. The witnesses clearly stated before the Enquiring Authority that there could not have been any intention of



pilfering or causing losses to the Board as the reference of the wires, which have allegedly been cut into smaller pieces, would not have been found in the Ledger Book.

The learned Single Judge, after having found that the allegation of causing losses could not be substantiated; the role of the respondents could not be ascertained and that on the contrary there were evidence of the respondents not being responsible for the cutting of the Squirrel Conductor Wires or of harboring an intention of pilfering those wires, came to the conclusion that the foundational facts for supporting the allegation was absolutely lacking. The learned Single Judge has also found out that the evidence led by the respondents has not at all been taken in account.

It has been argued on behalf of the appellants that the respondents were charged with a serious offence of being in collusion with other employees of the Board for destroying the property of the Board and defalcating the same and, therefore, in view of Clause 29-B(1) of the Standing Order, made themselves liable for being served with a penalty of dismissal. It has further been argued on behalf of the appellant that the learned Single Judge has dealt with the matters as if he was sitting in an appeal over the decision of the Disciplinary as well as Appellate



Authority and thereby has traversed into a field which is hitherto not available in the writ jurisdiction.

The judgement impugned, on the contrary, reflects that the learned Single Judge while dealing with the writ petitions of the respondents was conscious of the fact that in a disciplinary proceeding, the appreciation of facts by the authorities may not be the subject matter of any deeper probe; nonetheless since none of the foundational facts were found existing in the records, he did not agree with the findings of the Disciplinary as well as Appellate Authority.

One can very clearly peep into the mind of the Learned Single Judge when he writes :

"Perhaps in the nature of the order passed by the Disciplinary Authority and the Appellate Authority, I would have remitted the matter for passing a fresh order in accordance with law but in view of the uncontested position reflecting from the records of the proceedings where there is complete absence of materials to uphold the charge of misconduct as against these petitioners, I am of the considered opinion that the matter requires to be put to a quietus."

We are in complete agreement with the reasoning given by the learned Single Judge and,



therefore, are of the view that no interference is called for
at our end.

Appeals fail and are consequently dismissed.

No order as to costs.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	12.10.2018
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