

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6374 of 2018

Gajendra Kumar, Junior Engineer, Building Division, Jamui, Son of Sri Vidya Nand Mandal, Resident of Village-Khutha Rajee, P.O.-Laxmipur Bhagwati, P.S.-Sri Nagar, District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Building Construction Department, Patna.
2. The Principle Secretary, Building Construction Department, Govt. of Bihar, Patna.
3. The Engineer-In Chief-Cum-Special, Building Construction Department, Govt. of Bihar, Patna.
4. The Assistant Engineer, Building Construction Sub Division-3, Purnia.
5. The Executive Engineer, Building Division, Purnia.
6. The Superintendent Engineer, Building Circle, Purnia.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anjani Kumar Jha, Adv.

For the Respondent/s : Mr. Mahendra Prasad Verma, AC to SC-20

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 17-07-2018

Heard learned counsel for the parties.

In the present case, the petitioner is challenging the order dated 14.03.2018 (Annexure-4) issued under the signature of Engineer-in-Chief-cum-Special Secretary, Building Construction Department, Patna, inflicting punishment by way of withholding one annual increment with non-cumulative effect.

The petitioner is a Junior Engineer, he was assigned the job to execute the construction work at Purnea. In the meantime, one another person, namely, Sri Devendra Singh was also assigned to carry out the same work by the Executive Engineer which created a conflict of interest between them. The complaint was filed by Sri Devendra Singh whereupon the Executive Engineer recommended for departmental action against the petitioner. In turn, the Superintending



Engineer also recommended for taking suitable action against the petitioner, whereafter, the order of punishment has been passed against the petitioner.

Learned counsel for the petitioner submits that even for inflicting a minor punishment, the procedure prescribed under Rule 19 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 has to be followed by serving the show-cause and after due consideration of the explanation, if any, submitted by the petitioner, the authority would pass an order but, in the present case, only on the recommendation of the authorities for taking a departmental action against the petitioner, the order of minor punishment has been awarded which is completely in conflict and de hors to Rule 19 of the C.C.A. Rules, 2005.

The State has filed its counter affidavit but, has not denied the aforesaid submission of the petitioner.

In that view of the matter, the order dated 14.03.2018 (Annexure-4) is set aside. The competent authority, if so advised, may take action in accordance with law after following the procedure laid down under Rule 19 of the C.C.A. Rules, 2005.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

