

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2359 of 2019

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Shailendra Kumar, son of Late Dr. Mahabir Das, Resident of Mohalla- East
Boring Canal Road, Kamta Singh Lane, P.S.- Budha Colony, District- Patna

... .. Petitioner/s

Versus

1. The Bihar State Pollution Control Board through its Chairman Parivesh Bhawan Industrial Area, P.S.- Patliputra, District- Patna
2. The Chairman Bihar State Pollution Control Board, Parivesh Bhawan Industrial Area, P.S.- Patliputra, District- Patna
3. The Member Secretary Bihar State Pollution Control Board, Pariwesh Bhawan Industrial Area, P.S.- Patliputra, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar, Advocate.
For the Respondent/s : Mr. Parijat Saurav

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 18-02-2019

Heard Mr. Baidehi Raman Prasad Singh, learned counsel for the petitioner and Mr. Abhimanyu Singh, learned counsel for the Bihar State Pollution Control Board (respondents no. 1, 2 and 3).

2. For the petitioner having shown some misconduct and disobedience of superior authority, a proceeding was initiated against him in the year 1993. In the aforesaid proceeding, some of the charges were proved but the petitioner was given benefit of doubt with respect to one of the charges which could not stand the scrutiny of the enquiry officer. The disciplinary authority did not agree with the report of the enquiry officer and noted down his points of difference and gave an opportunity to the petitioner to furnish his reply. The petitioner was thereafter



subjected to a punishment of discharge from service and his challenge against the aforesaid order before a single judge of this court also did not succeed.

3. In the appeal which was preferred by the petitioner, the order of discharge was set aside and the department was directed to proceed against the petitioner, *de novo* holding enquiry afresh.

4. A *de novo* departmental proceeding was initiated against the petitioner and the suspension of the petitioner was revoked but no final order with respect to exoneration or punishment was ever passed. Thereafter, the petitioner continued in service.

5. However, later, vide Anneuxre-6, a fresh proceeding was initiated holding that the earlier order by which the suspension of the petitioner was revoked and the petitioner was not found guilty, was without any jurisdiction as it was passed by Member-Secretary without the concurrence of the Chairman-cum-Disciplinary Authority and that also by recording incorrect facts in the order.

6. As a result, the petitioner was subjected to a fresh proceeding in the light of the order passed by the Division bench of this Court in L.P.A. No. 893 of 2000.

7. The disciplinary authority agreed with the findings of the enquiry officer with respect to the charges



and thereafter subjected him to punishment of reduction of one increment without affecting the pension and payment of only subsistence allowance for the period of suspension. However, the order clarified that the period of suspension shall be treated as on duty for all other purposes.

8. The aforesaid order dated 22.10.2013 is under challenge.

9. After going through the records of this case, this Court finds that the petitioner never challenged the initiation of a fresh proceeding by order dated 03.10.2012 which held that the earlier order passed by the Member Secretary to be unauthorized.

10. Once the petitioner subjected himself to the disciplinary proceeding, the grounds which he has urged in the present petition with respect to the correctness of the decision of the authorities/respondents in not giving effect to the order passed by the Member-Secretary and put the petitioner further proceeding, cannot be agitated by him at this stage. Thereafter, this Court finds, that good reasons have been assigned by the Chairman-cum-Managing Director for passing the aforesaid order of punishment referred to above.

11. This Court also takes notice of the fact that the order seen in a composite manner, is only a minor



punishment and no interference by this Court is required at this stage.

12. For the aforesaid reasons, the petition has no merits and the same is dismissed.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2019
Transmission Date	

