

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3748 of 2016

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Kapoori Tanti, Son of Late Girja Tanti, at present resident of Mohalla-
Maksuspur, PO- Mungyer, District- Mungyer, Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna
3. The Additional Secretary to the Government, Department of Mines and Geology, Government of Bihar, New Secretariat, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Akashdeep, Advocate
For the S t a t e	:	Mr Gyan Prakash Ojha, GA VII with M/s Gopal Krishna, Uday Shakar Pandey, ACs to GA VII
For the M i n e s	:	Mr Naresh Dixit, Spl PP, Mines with Mr Sumit Shekhar Pandey, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 25-04-2019

Heard Mr Akash Deep, learned counsel for the petitioner and Mr Gyan Prakash Ojha, learned counsel for the respondent-State.

2 The petitioner has approached this Court for quashing the order of punishment dated 13.07.2015 whereby full pension of the petitioner has been withheld pursuant to the order of punishment dated 13.07.2015 issued by the Additional Secretary to the Government of Bihar in the Mines and Mineral Department. From bare perusal of the order of punishment itself, it appears that



on 28.05.2015, second show cause notice was issued to the petitioner where after the petitioner, on 15.06.2015, requested for 15 days' time for filing reply to second show cause notice. Subsequently, on 29.06.2015 also, petitioner has submitted a request for being granted 15 days more time for filing reply to show cause notice. No communication has been sent to him in response to his request dated 29.06.2015.

3 On 13.07.2015, the Disciplinary Authority has rejected the petitioner's prayer for granting him time for responding to the second show cause notice. The order of punishment and rejection of the petitioner's claim for time is by a composite order. Thus, till the date of passing the order of punishment, there was no decision in respect of the petitioner's request for being granted further time for submission of his reply to the second show cause. Since there was no decision, it goes without saying that there was no communication of any decision. The said dates are recorded in the order of punishment.

4 No decision to allow, or reject petitioner's request for further time was taken prior to the order of punishment dated 13.07.2015. The petitioner was not aware of the fact that the Disciplinary Authority had taken a decision to reject his request for further time. Thus, he has submitted his reply to second show



cause on 14.07.2015. On 14.07.2015, the second show cause notice has been received in the Department. The same is Annexure 8 to the writ petition.

5 Learned counsel for the State has urged that since communication of rejection of petitioner's prayer for further adjournment has been made on 13.07.2015 itself, therefore, the belated response on 14.07.2015 was not accepted by the respondent-authority. That submission is being noted only for being rejected.

6 From the order of punishment dated 13.07.2015, it is apparent that the order was passed at Patna. The same contains a note that it is to be communicated to the petitioner at his address in Munger. Petitioner has already retired prior to the issuance of the order of punishment. There is nothing on record to show that the order of punishment containing decision to reject the petitioner's plea for further time was communicated to the petitioner at Munger uptill 14.07.2015. The petitioner was not having knowledge of rejection of his request dated 29.06.2015 for further time to file response to second show cause.

7 In view thereof, in order to serve the larger interest of justice, this Court would observe that the respondents are obliged to consider the petitioner's response to second show cause notice



dated 14.07.2015 and to take decision afresh within three months from the date of receipt/production of this order in accordance with law after considering the second show cause notice submitted by the petitioner.

8 In order to facilitate a fresh decision in the matter, this Court would observe that the order dated 13.07.2015 bearing Memo No 2615, whereby the petitioner was earlier awarded the punishment, shall not stand in the way of the authorities in considering the reply to the second show cause notice. The entitlement of the petitioner will abide by the final decision to be taken within three months by the Disciplinary Authority after considering the petitioner's response to the second show cause.

9 Writ petition stands disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.04.2019
Transmission Date	NA

