

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1543 of 2006

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Baiju Sharma, son of late Jago Singh, resident of West Patel Nagar, Adarsh Colony, PS – Shastri Nagar, District - Patna

... .. Petitioner/s

Versus

- 1 The Bihar State Electricity Board through its Chairman, Vidyut Bhawan, Patna – 1
- 2 The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Patna – 1
- 3 The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna – 1
- 4 The Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna – 1
- 5 The Member (Technical), Bihar State Electricity Board, Vidyut Bhawan, Patna -1
- 6 Labour Welfare Officer -cum- Member Secretary, Housing Committee, Bihar State Electricity Board, Transmission Circle, Patna
- 7 Additional Secretary, General Administration, Bihar State Electricity Board, Patna
- 8 Accounts Officer, Office of GM -cum- Chief Engineer, Kosi Electric Supply Area, Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Surendra Mishra, Dineshwar Mishra, Advs
For the Respondent/s	:	Mr Vinay Kirti Singh, Sr Advocate with M/s Vijay Kr Verma, Akhileshwar Singh, Advs

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-10-2019

Heard learned counsel for the petitioner as well as learned Senior Counsel for the respondent-Board.

2 The petitioner has assailed the order dated 19.06.2002 imposing the punishment on him for illegally occupying the residential quarters by virtue of unauthorized occupation for the period 23.07.1994 to 28.02.1998.

3 Brief facts are that the petitioner was relieved from Patna to join at Saharsa on 23.06.1994. The relevant provisions



allow one month for vacating the official residence at the place from which the employee is transferred. The petitioner has continued unauthorizedly occupying the official residence allotted to him in Patna up till 01.03.1998. It is on these grounds that the proceeding was conducted against the petitioner and petitioner has been visited with the punishment of censure and deprivation of payment other than subsistence allowance for the period of suspension.

4 The petitioner's counsel submits that the 1972 Rules, with respect to official accommodation, was not applicable to the petitioner as the same was having limited application to employees of the Headquarters. Petitioner, being a regional employee in the Transmission, could not have been proceeded against for violation of the 1972 Rules which was not applicable to him. It is also submitted that since, under the Rules, penal rent had already been realized from the petitioner, the punishment, which has been inflicted upon him on 19.06.2002, is grossly unsustainable as once the Authorities have realized the penal rent, the matter should be given a quietus and there was no occasion for proceeding in the matter.

5 This Court has put specific query to the learned counsel for the petitioner that in the 1972 Rules, is there any



provision limiting its application to employees of Headquarters only. Petitioner's counsel has not shown any provision which sustains the submission advanced in so far as limited application is concerned.

6 In this connection, learned Senior Counsel for the Board has rightly pointed out from the stand of the petitioner as recorded in the Enquiry Report that it was only on a general conception that the petitioner has submitted that the Rule was not applicable for employees other than employees of the Headquarters. Stand of the petitioner is not based on the 1972 Rules.

7 On going through the enquiry Report, it is quite apparent that the witnesses have appeared in the proceedings and due opportunity has been granted to the petitioner to participate in the proceedings in accordance with law. Various communications have been considered which have been issued from the Circle Office as well as the Headquarters to the petitioner for vacating the official residence. In spite of such communication, petitioner has not vacated the premises for more than three and half years. Such gross insubordination is nothing short of a misconduct for which the Authorities have rightly proceeded to impose the punishment on the petitioner.



8 In so far as the other submission of the petitioner that once the penal rent has been realized, it was not proper for the Authorities to proceed against the petitioner, is concerned, this Court would observe that defiance of the petitioner in not complying with the orders of the Circle Office as well as Headquarters Office for more than three and half years does constitute an act of grave misconduct in itself. The Authorities have, therefore, rightly passed the order of punishment against the petitioner after due opportunity. The charges have been supported in the enquiry by evidence and witnesses in presence of the petitioner. There being no procedural infirmity, the order of punishment does not require any interference.

9 Since the order of punishment is not being interfered with, this Court would, therefore, observe that order of the Appellate Authority affirming the order of punishment also requires no interference.

10 Writ petition has no merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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