

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3477 of 2015

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Anupma, wife of late Brahmdeo Dubey, resident of Vatikapuri, Back of
Ramgarh Kothi, Police Station – Rupaspur, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Government of Bihar,
Sinchai Bhawan, Patna.
3. The Additional Secretary, Water Resources Department, Government of
Bihar, Sinchai Bhawan, Patna
4. The Under Secretary, Water Resources Department, Government of Bihar,
Sichai Bhawan, Patna.
5. The Deputy Secretary, Water Resources Department, Government of Bihar,
Sichai Bhawan, Patna.
6. The Chief Engineer, Water Resources Department, Government of Bihar,
Anisabad, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Ajey Kr, Binay Kr Thakur, Advocates
For the S t a t e : Mr Md Irshad, AC to SC I

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 15-02-2019

Heard learned counsel for the petitioner and the
respondent-State.

2 It is submitted by the learned counsel for the
petitioner that taking note of the petitioner's husband's defence and
absence of any material in support of the charges, the Enquiry
Officer, under the Enquiry Report dated 27.01.2014, has found the
charges not proved. In absence of any material before the Enquiry
Officer or brought in course of the proceedings, order of the



Disciplinary Authority inflicting the punishment of dismissal which is dated 05.01.2015 is legally unsustainable. It is the submission of the learned counsel for the petitioner that in the proceedings, there has been violation of Rule 17 (14) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, *Bihar CCA Rules*) inasmuch as no evidence or witness has been produced by the Presenting Officer in support of the charges. It is also submitted that relying upon extraneous considerations and without following the procedure under Rule 18 (2) of the Bihar CCA Rules, the Disciplinary Authority has differed with the findings of the Enquiry Officer to record the extreme penalty of dismissal.

3 Being faced with the difficulty of non-availing of the statutory remedy of Review, learned counsel for the petitioner submits that all these issues will be raised before the competent authority by preferring a Memorial for availing the remedy of Review prescribed under Rule 24 (2) of the Bihar CCA Rules.

4 In view of such submission, this Court would dispose of the writ petition.

5 It is only observed that it is expected that the remedy of Review is not reduced to a formality and that the Authority will take into consideration the aforesaid grievance of the petitioner



which will be submitted by her by a comprehensive representation along with a copy of this order within four weeks from today.

6 In the event, such an application is submitted, the Authority should dispose of the application expeditiously and preferably within a period of three months thereafter.

7 Writ petition stands disposed of.

8 If the Review Authority is satisfied of the grounds urged by the petitioner, needless to say, consequential benefits shall flow to the petitioner who is now substituted widow of the original employee/writ petitioner.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.02.2019
Transmission Date	NA

