

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2671 of 2012

VISHWANATH RAM S/O Late Ram Ayodhya Ram Resident Of Teliya Patti
Maweshi Hospital, Dompatti, P.S. - Motihari Town, Dist. East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Urban Development Department, Govt. Of Bihar, Patna.
3. The District Magistrate, East Champaran At Motihari.
4. The Motihari Municipality Nagar Parishad, Through Its Chairman.
5. The Executive Officer, Motihari Municipality, Main Road Motihari, P.S. Chhatauni, Dist.- East Champaran.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15285 of 2011

MUNNA RAM-2 S/O Late Shambhu Mestar R/O Henry Bazar Mestar Toli,
P.S.- Motihari Town, District- East Champaran.

... .. Petitioner/s

Versus

1. The state of Bihar.
2. The Principal Secretary, Urban Development Department, Govt. Of Bihar, Patna.
3. The District Magistrate, East Champaran At Motihari
4. The Motihari Municipality Nagar Parishad Through Its Chairman
5. The Executive Officer, Motihari Municipality, Main Road Motihari, P.S. Chhatauni, District- East Champaran.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2671 of 2012)

For the Petitioner/s : Mr.Sangeet Deokuliar, Advocate

For the Respondent/s : AC to AAG -15

(In Civil Writ Jurisdiction Case No. 15285 of 2011)

For the Petitioner/s : Mr.Sangeet Deokuliar, Advocate

For the Respondent/s : Mr. Anil Kumar Singh, Advocate

For the respondents No. 4&5:- Mr. Binod Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER



6 09-09-2019

These matters are being taken up together, since both the petitioners have suffered by virtue of a common decision taken by the Board of Municipal Corporation dated 29.09.2008.

The petitioners have been removed from their services by virtue of same decision taken by the Board in its meeting dated 29.09.2008. Consideration and decision of the Board has not been placed on record, nor communicated to the petitioners while dispensing with their services from the respondent Municipal Corporation where they were working since 2002.

The admitted facts are that the petitioners were absent from 02.05.2008 to 15.05.2008. They were issued 'Prapatra 'K' for their alleged absence from duty. Both the petitioners have submitted Medical prescriptions in support of their illness so as to justify their absence for 12 days. Authorities, thereafter have placed the petitioners' plea of illness before the respondent Corporation and the Board in its meeting dated 29.09.2008 had taken decision to dispense with the petitioners from their employment. These are admitted facts emerging from the records including the order of dispensing with the petitioners services dated 26.11.2008 (Annexure-6) of the writ petition.

Respondents have filed their counter affidavit also. There is no mention that pursuant to the medical prescriptions



submitted by the petitioners, any verification was done or any proceedings were conducted. Merely on the basis of show-cause notice which has been issued (Prapatra K) petitioners' services have been dispensed with without conducting any enquiry.

Whether the petitioners' plea of illness supported by the medical certificate was correct or whether the petitioners had absented from duty otherwise has not been considered by the authorities. The order dated 26.11.2008 is unsustainable. No proceedings having any legal sanction has been conducted prior to dispensing with the petitioners' services.

Even the reasons for their dismissal/ termination which is said to have been taken by the Board in its meeting dated 29.09.2008 has never been communicated to the petitioners. This Court would also consider that on account of absence of twelve days per se. Such extreme punishment should not have been awarded to the petitioners.

Show-cause which has been typed on 'Prapatra K' is also vague and does not make out any misconduct. The short period of absence of twelve days is also not a sufficient cause for making out any charge against the petitioners.

The order dated 26.11.2008 issued by the Exclusive Officer, respondent No. 5 dispensing with/terminating



petitioners' services in both the writ petition are product of an identical exercise by a common order. The same are hereby quashed.

The petitioners by virtue of quashing of order of dismissal would be entitled to reinstatement forthwith and grant of consequential benefits arising out of their reinstatement.

Both the writ petitions stand allowed.

(Madhuresh Prasad, J)

T.Kr./-

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