

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9537 of 2016

Indrajit Saxena, son of Late Anup Ram, Resident of Shishmahal Apartment,
Block-B, Flat No.4B, Near Bahadurpur Gumti, P.S.- Bahadurpur, District-
Patna. ... Petitioner/s

Versus

1. The State of Bihar
 2. The Principal Secretary, Water Resources Department, Bihar, Patna.
 3. The Joint Secretary, Water Resources Department, Bihar, Patna.
 4. The Additional Secretary, Water Resources Department, Bihar, Patna.
 5. The Deputy Secretary, Water Resources Department, Bihar, Patna.
 6. The Engineer-in-Chief Middle cum- Enquiry Officer, Water Resources Department, Bihar, Patna.
 7. The Dy. Director Executive Engineer Irrigation Monitoring Circle, Patna-cum- Presenting Officer, B
 8. The Secretary, Bihar Public Service Commissioner, Bihar, Patna.
- Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siyaram Sahi, Advocate
		Mr. Indu Bhushan, Advocate
For the Respondent/s	:	Mr. Ravindra Nath Dubey, AAG-12
For the BPSC	:	Mr. Nishant Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 19-05-2021 Heard learned counsel appearing on behalf of the petitioner, learned counsel appearing on behalf of the State, as well as learned counsel appearing on behalf of the respondent-Bihar Public Service Commission.

2. Petitioner is aggrieved by the order inflicting punishment contained in Memo No. 1385 dated 19.09.2014 (Annexure-9) and also aggrieved by the rejection of review application filed by the petitioner contained in Memo No. 185 dated 20.01.2015 (Annexure-11).



3. Mr. Siya Ram Shahi, learned counsel appearing on behalf of the petitioner, informs the Court that during the pendency of the writ application, the petitioner has superannuated. The present writ application was filed in 2016. We are in 2021. Petitioner was proceeded against for alleged lapses on his part in the matter of correction of date of birth of one Lal Sahay Ram working in the Department. Vide Annexure-1 *Prapatra* 'K' was issued on 09.12.2010. Petitioner submitted his explanation. The Enquiry Officer noticing the entire facts and circumstances of the case recorded the finding that there was no occasion to proceed against the petitioner. However, second show-cause notice was issued by the disciplinary authority and thereafter vide Annexure-9 the petitioner was inflicted punishment of stoppage of three increments with cumulative effect and a rider was also imposed that the case of petitioner shall not be considered for grant of promotion in future.

4. Mr. Siya Ram Shahi, learned counsel appearing on behalf of the petitioner, submits that the petitioner being the Executive Engineer has acted upon noting of the office clerk, head clerk and recommendation of the S.D.O. and on that basis date of birth of Lal Sahay Ram was corrected from 24.01.1945 to 24.01.1947. Although he has highlighted



manifold infirmities in conduct of the departmental proceeding and the order inflicting punishment of stoppage of three increments with cumulative effect but having regard to the fact that the petitioner has now superannuated, he has confined his argument on the question of quantum of punishment. He submits that the petitioner relied upon noting of the office clerk, head clerk and recommendation of the S.D.O. and as such in the decision making process, he cannot be faulted and punished for correction of date of birth of Lal Sahay Ram from 24.01.1945 to 24.01.1947. He submits that the petitioner being the Executive Engineer has to rely upon the noting on the file and recommendation of his associate employees and officers including S.D.O. and as such the order inflicting major punishment in the facts of the present case is uncalled for and unwarranted, as no full dressed enquiry was conducted holding the petitioner guilty of the charge.

5. Considering the fact that the petitioner superannuated in 2017 and there is no specific finding recorded by the Enquiry Officer holding the petitioner in any manner guilty for the alleged lapses, the Court is of the view that the respondents may revisit the issue of quantum of punishment.



6. Accordingly, the writ application is allowed.

The order inflicting punishment contained in Memo No. 1385 dated 19.09.2014 (Annexure-9) and the order of rejection of review application filed by the petitioner contained in Memo No. 185 dated 20.01.2015 (Annexure-11) are hereby quashed with a direction to the respondents to reconsider the issue of quantum of punishment in the light of the service record of the petitioner.

7. Necessary fresh decision on the quantum of punishment may be taken by the respondents at the earliest preferably within a period of four months from the date of receipt/production of a copy of this order. Fresh order shall overrides Annexures- 9 and 11 and the respondents have to act strictly in accordance with fresh decision on the quantum of punishment as indicated above.

8. The writ application is allowed to the extent as indicated above.

(Anil Kumar Upadhyay, J)

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