

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2975 of 2021

Sanjay Kumar Suman son of Late Suresh Prasad Yadav resident of Katoria Kothi, Road No. 15 E, Near Nala, Rajeev Nagar, P.S. - Rajeev Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Water Resources Department, Bihar, Patna.
3. The Joint Secretary, Water Resources Department, Government of Bihar, Patna- cum- Enquiry Officer.
4. The Additional Secretary, Water Resources Department, Bihar, Patna.
5. The District Magistrate, Darbhanga.
6. The Engineer-in-Chief, Water Resources Department, (Headquarter), Government of Bihar, Patna.
7. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Samastipur.
8. The Superintending Engineer, Flood Control Circle, Darbhanga.
9. The Executive Engineer, Flood Control Circle, Darbhanga.
10. The Executive Engineer, Flood Control Planning and Monitoring Division, 18, Water Resources Department, Patna-cum- Presenting Officer.
11. The Executive Engineer, Flood Control Division-2, Jhanjharpur, District-Madhubani.
12. The Secretary, Bihar Public Service Commission, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ujjwal Bhushan, Advocate
For the Respondent/s : Mr.Binay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 01-07-2021 Heard learned counsel for the petitioner and the State.

Although by order dated 16.03.2021 specific direction was issued to the respondents to file counter affidavit on the issue whether the case is covered by the judgment of this Court



dated 4.3.2021 passed in CWJC No. 7416 of 2018 and other cases but the counter affidavit is piquantly silent on the aforesaid issue.

The short point which requires adjudication in this writ petition is that the petitioner has been inflicted major punishment of stoppage of 8 increments with cumulative effect in a departmental proceeding where the charges were denied by the petitioner yet the department failed to examine any witness in support of the charges and no documentary evidence was produced in accordance with law against the charges.

In view of the principle decided by the Apex Court in the case of **Kumaon Mandal Vikas Nigam Ltd. v/s Girja Shankar Pant: (2001) 1 SCC 182**, since no witness was examined in the departmental proceeding to prove the charges, the Court is contained to hold that the enquiry report is not supported by admissible evidence and based on the aforesaid enquiry report, the decision inflicting punishment of stoppage of 8 increments with cumulative effect is unsustainable in the eye of law. Accordingly, the order 12.07.2019 passed by the disciplinary authority, Annexure-13 and the order dated 6.2.2020 rejecting the review petition of the petitioner are hereby quashed.



The matter is remanded back to the respondents to examine the witnesses, if any, in support of the charges and thereafter complete the enquiry on the basis of evidence and record finding after opportunity to the petitioner to cross-examine the witnesses and hearing the petitioner. The fresh exercise in this regard must be completed by the Enquiry Officer within a period of four months from the date of receipt/production of a copy of this order and thereafter appropriate decision may be taken by the disciplinary authority in accordance with law.

With the aforesaid, the writ petition stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

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