

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7439 of 2021

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Sudarshan Singh Son of Late Bindeshwar Singh resident of Mohalla - Jairam Bazar, Khagaul Pethiya, Police Station - Khagaul in the district of Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Principal Secretary, Minor Irrigation Department, Government of Bihar, Patna.
4. The Additional Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Enquiry Commissioner, General Administrative Department, Government of Bihar, Patna.
7. The Chief Engineer, Muzaffarpur, Minor Irrigation Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sunil Kumar, Advocate
For the Respondent/s : Mr.Harish Kumar (Gp8)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 11-05-2022

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:-

“1. That this is an application
of issuance of an appropriate writ/writs,
order/orders, direction for the following
reliefs:

I. To quash the
Notification contained in Memo No.
1162 dated 23.9.2020 issued under
the signature of respondent no. 5 by



the order of the Hon'ble Governor, Bihar, Patna by which 100% Pension of the petitioner has been stopped permanently.

II. Also to direct the respondents to start the Pension of the petitioner forthwith.

III. Also for any other relief/reliefs for which the petitioner is entitled in the eye of law.”

3. On 26.11.2021, following order was passed:

“Heard learned counsel for the petitioner and learned counsel for the State through virtual court proceedings.

Punishing authority is hereby directed to file an affidavit as to whether at the time of initiation of disciplinary proceedings under Rule 17 of the Bihar CCA Rules, 2005 is there compliance to sub-Rule 3 of Rule 17.

Learned counsel for the petitioner submitted that list of witnesses has not been made available. The affidavit must disclose if the list of witnesses is prepared and furnished to the petitioner as to on what date it was served on the petitioner.

Such affidavit be filed before the next date of hearing failing which, adverse order would be passed against the disciplinary authority on the next date of hearing.

Re-list this matter on 20.12.2021.”

4. Respondent Nos. 3 and 7 filed counter



affidavit. Para 9 of the counter affidavit reads as under:-

“9. That it is made clear that in compliance of the provision made under Rule 17(3) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, a copy of the aforesaid resolution was duly communicated and served to the petitioner along with the Articles of charges and list of documents. But the list of witnesses was not prepared and served to the petitioner. However, the petitioner also did not make any request for examination of witnesses.”

5. In the light of aforesaid infirmity that charge-memo was not accompanied by list of witnesses and further proceedings is vitiated due to non-compliance of Sub-rule 3 of Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005.

6. In view of aforesaid deficiency in the enquiry proceedings impugned order dated 23.09.2020 (Annexure-1) stands set aside. Reserving liberty to the disciplinary authority to initiate fresh enquiry in accordance with Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 and complete the proceedings within a period of four months from the date of receipt of this order. The petitioner shall be taken back to duty, subject to outcome of



disciplinary proceedings to be initiated and completed.

7. Petitioner is entitled to monetary benefits during the intervening period from the date of penalty order dated 23.09.2020 till reinstatement order is passed.

8. With the above observations, the present petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2022
Transmission Date	

