

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4260 of 2019

=====

Bijay Kumar Singh Son of Late Bhuvneshwar Singh Resident of Village
Purain, Post Office Shukhpur, Police Station- Supaul, District- Supaul

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources
Department, Bihar, Patna
2. The Principal Secretary, Water Resource Department, Govt. of Bihar, Patna
3. The Additional Principal Secretary, Water Resource Department, Govt. of
Bihar, Patna
4. The Additional Secretary-cum-Director, Land Acquisition and Rehabilitaion,
Water Resource Department, Bihar, Patna
5. The Special Land Acquisition Officer, Sone Yojana, Aurangabad
6. The Special Land Acquisition Officer, Patna Barh Suraksha Yojana, Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Mr. Sriram Krishna, AC to SC 11

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 17-10-2022

Heard learned counsel for the respective parties.

On 30.08.2022, the following order was passed:-

*"None appears for the State
respondent.*

*The petitioner has assailed the
order of removal from service dated
20.02.2018. Pursuant to the charge memo
dated 21.07.2017, the alleged charge is
relating to unauthorized absence from
09.01.2017 to 17.07.2017.*

*Learned counsel for the
petitioner submitted that petitioner has
been punished with major penalty of
removal from service for remaining
alleged unauthorized absence. The*



charge is not supported by list of documents and list of witnesses. It is also submitted that for absence, he has stated to have furnished medical certificates and the same have not been appreciated. Therefore, the State counsel is hereby directed to secure original records relating to disciplinary proceedings and apprise this Court on the next date of hearing, failing which the disciplinary authority – respondent is hereby directed to appear in person along with records.

Re-list this matter on 13.09.2022."

Learned counsel for the State admitted that sub-rule 4 of Rule 17 of Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 has not been followed in the disciplinary proceedings.

In the result, the entire proceedings from the date of framing of charge till passing of impugned orders are vitiated. Accordingly, the impugned orders dated 01.01.2018, 02.02.2018 and 02.01.2019 are set aside.

The petitioner is stated to have attained age of superannuation and retired from service on 31.01.2022. In the result, disciplinary authority/Government is empowered to impose any of the penalty under Section 43(b) of the Bihar Pension Rules. Hence, the disciplinary authority is hereby directed to proceed



afresh inquiry from the defective stage and complete the inquiry proceedings within a period of four months from the date of receipt of this order. The intervening period from the date of removal from service, i.e., 20.02.2018 till passing of final order in a fresh inquiry. The same shall be regulated within a period of two months from the date of passing final order in an inquiry. In the event of non-completion of inquiry within a period of four months in that event petitioner is entitled to retiral benefits. The same shall be calculated and disbursed to the petitioner.

Accordingly, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

