

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.305 of 2019

In
Civil Writ Jurisdiction Case No.19661 of 2016

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1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
 2. The Principal Secretary Suchna Jan Samparak Bibhag, Government of Bihar, Patna
 3. The Deputy Director Suchna Jan Sampark Bibhag, Government of Bihar, Patna-cum- enquiry officer
 4. The Director Suchna Jan Sampark Bibhag, Government of Bihar, Patna

... .. Appellant/s

Versus

Anant Kumar S/O- sri Sidheshwar Prasad R/o- Village- Badgaon Lodipur,
P.O. and P.S.- Nalanda, Dist- Nalanda,Bihar Sharif, Presently New Area
Jakkanpur

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Gyan Shankar (AC to GP- 2)
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date: 17.05.2022

The present appeal has been filed challenging the judgment and order dated 03.08.2018 passed by the learned Single Judge in CWJC No. 19661 of 2016, whereby and whereunder the writ petition has been allowed, the order of termination of the petitioner from his services dated 11.11.2016 has been quashed and the petitioner has been directed to be reinstated in service with full back wages as also all consequential benefits.



Shorn of the details, it would suffice to state that Rule 17(14) of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'the Rules') casts an obligation on the Presenting Officer to prove the charges by leading oral/documentary evidence and to allow the delinquent to cross examine the prosecution witnesses, however, in the present case admittedly this mandatory provision has apparently not been followed by the Presenting Officer and instead the Enquiry Officer has drawn a mechanical conclusion on the basis of materials that were placed before him but were never proved inasmuch as neither oral nor documentary evidence was ever led by the Presenting Officer nor any evidence/material was put up for contest to the delinquent.

Admittedly, not even the complainant was produced by the Presenting Officer before the Enquiry Officer for examination and cross-examination. Similarly, the disciplinary authority while passing the order of punishment has mechanically recorded satisfaction over the findings of the Enquiry Officer, however, without considering much less discussing the issues raised by the writ petitioner-respondent herein in his reply to the second show cause notice issued to the



writ petitioner-respondent herein. After due consideration of the entire matter, the learned Single Judge came to a conclusion that the impugned order of punishment dated 11.11.2016 rested on no evidence and has been passed without application of mind, which the learned counsel for the appellant has not been able to dispute.

Having considered the facts and circumstances of the case, we see no reason to differ with the conclusion of the learned Single Judge. Consequently, the Letters Patent Appeal stands dismissed.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

S.Sb/-

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