

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.418 of 2020**

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Sudhir Kumar, S/o Budhan Pandit, resident of Mohalla-Kahari Tola, Sarai,  
P.S.- Maner, District- Patna.

... .. Petitioner/s

Versus

1. The Managing Director, South Bihar Power Distribution Company Limited,  
Bailey Road, Patna.
2. The General Manager, (Human Resources and Administration) South Bihar  
Power Distribution Company Limited, Patna.
3. The Chief Engineer-cum-Enquiry Officer, South Bihar Power Distribution  
Company Limited, Patna.
4. The Deputy General Manager (Human Resources and Administration) South  
Bihar, Power Distribution Company Limited, Patna.
5. The Under Secretary, South Bihar, Power Distribution Company Limited,  
Patna.

... .. Respondent/s

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**Appearance :**

|                      |   |                                                       |
|----------------------|---|-------------------------------------------------------|
| For the Petitioner   | : | Mr.Pradhan Murli Manohar Prasad, Advocate             |
| For the Respondent/s | : | Mr.Kunal Tiwary, Asst. Standing Counsel for<br>SBPDCL |

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 04-08-2022**

Heard learned counsel for the petitioner and the learned  
counsel for the respondent-Company.

2. The petitioner was the Head Clerk, Section-V, in  
South Bihar Power Distribution Company Limited, Patna. He has  
been served with a charge memo, containing three charges. The  
first charge was that pursuant to an order dated 25.09.2013 passed  
in CWJC No.7680 of 2008, the petitioner of the said application  
had made a representation on 26.02.2014, on which petitioner took  
no action. Second charge is non-filing of LPA against the order  
passed in the said writ proceedings. The third charge, which is



ancillary to the first and second charge, alleges negligence and dereliction of duty on these two counts. The charges have been found proved and the petitioner has been visited with the minor consequence of withholding of his two annual increments without cumulative effect. The order of punishment is dated 05.02.2015, bearing Office Order No.165.

3. The petitioner has filed an appeal against the said order, which has been rejected as being barred in time under order dated 22.10.2019.

4. Learned counsel for the respondent-Company at the very outset has taken a preliminary objection regarding maintainability of the writ petition on the ground of delay. It is submitted that since the order of punishment is of 2015, the writ petition filed in 2020 is manifestly suffering from delay and laches. He thereafter submits that the petitioner has been meted fair treatment at the enquiry. Two charges, which could not be sustained, have been excluded and only third charge has been found to be proved, on the basis of which a very minor punishment has been inflicted upon the petitioner.

5. The objection regarding the application being barred by delay and laches is taken note of only to be rejected.



6. The order on the appeal filed by the petitioner is dated 22.10.2019. It is this order which has given the petitioner a cause of action to approach this Court. Apart from that, the delay, in the opinion of the Court, having regard to the consequences arising out of the order of punishment, merits no consideration as being a delay. The fact that the petitioner has taken up the matter in appeal shows that the petitioner was vigilant and therefore, the objection regarding delay and laches is rejected.

7. In so far as the finding on the third charge is concerned, this Court would observe that Charge No.3 is a charge ancillary to Charge Nos.1 and 2 and not an independent charge, based on any other allegation against the petitioner. Since the enquiry officer has not found Charge Nos.1 and 2 to be proved, the finding that Charge No.3 being ancillary to Charge Nos.1 and 2 being proved, is a glaring example of a perverse conclusion. Since the enquiry officer has not found the petitioner guilty of inaction on the representation filed by the petitioner of CWJC No.7680 of 2008, and since he has also not been found guilty of non-filing of LPA against the said order passed in the writ proceedings, the conclusion that for the aforesaid inaction he can be held to be negligent; and in any way guilty of dereliction is clearly unsustainable.



8. This Court would consider it appropriate to take note of the fact that the petitioner of CWJC No.7680 of 2008 submitted his representation on 26.02.2014. The petitioner has taken charge of the office being made responsible for inaction on the said representation, on 31.03.2014, i.e., more than a month later. In the finding portion of the enquiry report also where the third charge has been proved, the enquiry officer has recorded a finding that there is nothing to show as to on which date the file was received by the petitioner.

9. In the circumstances, on the merits of the charges also, the findings are perverse. The conclusion of the disciplinary authority contained in the order of punishment dated 05.02.2015, therefore is unsustainable and quashed. The order of the appellate authority dated 22.10.2019 is also quashed. The petitioner in view of the quashing of these orders would be entitled to all consequential benefits.

10. Writ petition stands allowed.

**(Madhuresh Prasad, J)**

PNM

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| AFR/NAFR          | NAFR       |
| CAV DATE          | N.A.       |
| Uploading Date    | 27.08.2022 |
| Transmission Date | N.A.       |

