

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10402 of 2016

Indrajit Saxena son of Late Anup Ram resident of Shishmahal Apartment,
Block - B, Flat No. 4B, Near Bahadurpur Gumti, P.S. - Bahadurpur, District -
Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Water Resources Department, Bihar, Patna.
3. The Principal Secretary, Disasters Management Department, Bihar, Patna.
4. The Joint Secretary, Water Resources Department, Bihar, Patna.
5. The Additional Secretary, Water Resources Department, Bihar, Patna.
6. The Deputy Secretary, Water Resources Department, Bihar, Patna.
7. The Under Secretary, Water Resources Department, Bihar, Patna.
8. The Engineer-in-chief North, Water Resources Department, Bihar, Patna.
9. The Chief Engineer, Water Resources Department, Purnia.
10. The Chief Engineer, Water Science and Scheme Arrangement, Department
of Water Resources Bihar, Patna
11. The Superintending Engineer, Mahananda Flood Control Circle, Katihar.
12. The Superintending Engineer, Flood Scheme and Monitoring Anchal, Water
Resources Department, Patna.
13. The Superintending Engineer, Flood Control Division, Katihar.
14. The Executive, Flood Control Division, Katihar.
15. The Executive Engineer, Flying Squad Division No. 7, Water Resources
Department, Patna.
16. The Assistant Engineer, Flying Squad Circle, Water Resources Department,
Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Indu Bhushan
For the Respondent/s : Mr.GA4- Ashok Priyadarshi

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 12-01-2023 Heard learned counsel for the parties.

Petitioner through this writ petition has prayed for
quashing the memo No. 1429 dated 24.12.2012 (Annexure-2 to



the writ petition) whereby two increments of the petitioner has been withheld without cumulative effect and also for quashing memo No. 797 dated 01.04.2015 (Annexure-4 to the writ petition) whereby review petition of the petitioner against the penalties has been rejected and the punishment imposed against the petitioner has been affirmed.

Learned counsel for the petitioner makes short submission to the effect that order of punishment has been passed in violation of principles of natural justice. He submits that it is in teeth of Rule 19 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. The impugned order does not at all discloses as to why the defense/ explanation/ reply of the petitioner to the show cause was not found trustworthy by the Disciplinary Authority.

On the other hand learned counsel for the State submits that after exhausting due process of the departmental proceeding and following the principles of natural justice the order of punishment has been passed and the same does not suffer from any infirmity and requires no interference by this court. It is pointed out that while petitioner was posted as Chief Engineer, Water Resources Department, Purnia in the year 2009-10 during that period he did not comply the departmental



instructions properly which had been issued for protection of embankments and spurs. He failed to arrange the materials and labourers at the site and committed gross negligence due to which spur situated at chain No. 688.00 of Labha Chaukia Paharpur Mahananda Right embankment and downstream of embankment at chain No. 688.00 were damaged.

Having heard the rival submissions of the parties and taking into consideration the materials available on record, it is clear that while passing the order of punishment the Disciplinary Authority failed to take into consideration the reply filed by the petitioner. It is has rightly been submitted by the petitioner that recording of reason is a principle of natural justice.

Order imposing punishment does not disclose at all any application of mind as to why petitioner's representation against finding recorded by Inquiring Authority have not been accepted. It is mandatory for the Disciplinary Authority to deal with the explanation filed by the delinquent while exercising power under Disciplinary Rules. Non compliance of it will result into violation of natural justice and breach of statutory provision itself.



Since the petitioner has retired from service in the year 2017 and minor punishment has been imposed against him, this court holds that it would not be proper, at this stage, to remit the matter back to the Disciplinary Authority to consider the matter afresh.

In the result, this writ application is allowed and the impugned orders as contained in memo No. 1429 dated 24.12.2012 (Annexure-2 to the writ petition) and in memo No. 797 dated 01.04.2015 (Annexure-4 to the writ petition) are hereby set aside. The petitioner is, accordingly, also held to be entitled to the consequential benefits, if any.

(Prabhat Kumar Singh, J)

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