

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.201 of 2022
In
Civil Writ Jurisdiction Case No.12980 of 2017

1. The State of Bihar.
2. The Principal Secretary, Road Construction Department, Bishweshariya Bhawan, Bailey Road, Patna.
3. The Secretary, Rural Works Department, Bihar, Patna, Bishweshariya Bhawan, Bailey Road, Patna.
4. The Additional Secretary, Rural Works Department, Bihar, Patna, Bishweshariya Bhawan, Bailey Road, Patna.
5. The Engineer-in-Chief-cum-Special Secretary, Road Construction Department, Bihar, Patna, Bishweshariya Bhawan, Bailey Road, Patna.
6. The Engineer-in-Chief, North Bihar-cum-Enquiry Officer, Road Construction Department, Darbhanga.
7. The Deputy Secretary, Road Construction Department, Bishweshariya Bhawan, Bailey Road, Patna.

... .. Appellant/s

Versus

Naresh Prasad Sinha son of Late Kailash Prasad Sinha, Resident of Village-Goshi, District-Jehanabad, at present Qtr. No. B/12, Ganga Bridge Colony, P.S. Hajipur, District Vaishali.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mahtab Alam (A.C. To S.C.20)

For the Respondent/s : Mr. Akhilesh Dutta Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 17-03-2023

Re : Interlocutory Application No. 1 of
2022.



This Interlocutory Application has been filed for condoning the delay of 4 months and 28 days in filing the present memo of appeal.

For the reasons stated in the application, the delay of 4 months and 28 days in preferring the present appeal is condoned.

The Interlocutory Application No. 1 of 2022 stands allowed.

L.P.A No. 201 of 2022.

1. Heard Mr. Mahtab Alam, the learned Advocate for the appellant/State and Mr. Akhilesh Dutta Verma, the learned counsel for the respondent.

2. The respondent had been dismissed from service for having been made accused in a criminal case launched by Vigilance Department for having been caught red-handed, accepting a bribe of Rs. 3000.

3. In the Departmental proceeding, however, no document was furnished nor any witness was cited and the only document which perhaps was placed for consideration



before the Inquiry Officer was a letter seeking sanction for prosecution of the respondent in the criminal side.

4. The respondent could not even participate in the proceeding on all dates as none of those dates were made known to him as he had been, during the period of suspension, sent to the Headquarters at a different place.

5. An additional charge against the appellant namely, his non-cooperation in the departmental proceeding was also attempted to be foisted.

6. The learned Single Judge took notice of the fact that the Inquiry Officer submitted a report in the first instance holding the respondent guilty, but such report did not find favour with the Disciplinary Authority, who returned the same to the Inquiry Officer for writing out a fresh report.

7. But the same report was reiterated for the second time which was curiously accepted by the Disciplinary Authority and on the basis of such inquiry report, the respondent was terminated from service.

8. Considering such anomaly in the conduct of



the departmental proceeding, the Court found that the Disciplinary Authority had completely abdicated his function and without any basis, reached at a conclusion against the underwhelming materials brought on record.

9. Even the charge with respect to non co-operation was never dealt with by the Disciplinary Authority.

10. Consequently, the entire domestic inquiry was found to be completely vitiated and therefore, it was set aside and the State was imposed with a cost of Rs. 10,000/- to be paid to the respondent within a fixed period of time which has yet not been paid.

11. Mr. Verma, the learned Advocate for the respondent has informed us that the criminal case is still pending trial.

12. However, in the facts and circumstances of this case, we do not find any reason to interfere with the judgment of the learned Single Judge except to the extent that we waive the cost imposed upon the respondent.

13. With this modification in the judgment dated



25.10.2021, this appeal is dismissed.

(Ashutosh Kumar, J)

(Partha Sarthy, J)

sharun/sunil-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.3.2023
Transmission Date	N/A

