

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20924 of 2011

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Ramanuragi Singh S/O Shri Ramawatar Singh C/O Shri Paras Singh,
Shikshak Colony, Near Sheo Mandir, Chitraguptnagar, P.S.- Patrakarnagar,
Town And District-Patna

... .. Petitioner

Versus

1. The State Of Bihar
2. The Secretary-Cum-Commissioner Department Of Road Construction,
Bihar, Patna
3. Engineer-In- Chief-Cum- Additional Secretary-Cum-Special Secretary
Department Of Road Construction, Bihar, Patna
4. The District Magistrate, Nalanda
5. The Block Development Officer, Silao, District- Nalanda

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Sanjay Parasmani, Advocate
For the Respondent/s : Mr.Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 05-04-2023 Heard learned counsel for the petitioner and the State.

Petitioner in this case is aggrieved by and dissatisfied with the order as contained in Memo No. 4953 dated 15.09.2011 as contained in Annexure '14' to the writ application whereby and whereunder the representation of the petitioner submitted in the light of the order dated 31.08.2009 passed by this Court in CWJC No. 11009 of 2009 has been rejected.

It appears from perusal of Annexure '14' to the writ application that earlier a disciplinary proceeding was initiated against the petitioner under the Bihar Pension Rules, 1950 (hereinafter referred to as the "Pension Rules"). The charge



against the petitioner was that he had entered work for Rs. 87,751/- in respect of Scheme No. 29/01-02 in village-Kadamtar whereas in course of inquiry it was found that the actual work was done for only Rs. 53,692/-. Similarly the petitioner had entered a work of Rs. 2,54,367/- in respect of said scheme whereas the work of the said scheme had already been stopped vide Memo No. 187 dated 15.04.2002 till further order.

In the proceeding under the Pension Rules, the petitioner was found guilty and the disciplinary authority directed for recovery of Rs. 11,293/- and Rs. 84,789/- from the petitioner. His pension was deducted by 5%. The order of the disciplinary authority as contained in Memo No. 2730 dated 28.07.2009 was the subject matter of challenge in CWJC No. 11009 of 2009.

At this stage, learned counsel for the petitioner has assailed the impugned orders on the ground that the charges relate to a period more than four years prior to the date on which the memo of charge was issued. It is further contented that the proceeding was initiated against the petitioner on the direction of the learned Lokayukta which was impermissible as the Lokayukta has no authority in law to direct initiation of a departmental proceeding. Reliance in this regard has been



placed on the judgment of a learned Coordinate Bench of this Court in case of **Bipin Bihari Singh vs. The State of Bihar and Others** reported in **(2020) 3 PLJR 10**.

Learned counsel further submits that on perusal of Annexure '14' to the writ application, it would appear that a plea has been taken that the proceeding before the learned Lokayukta had been going on during the relevant period, therefore, the period spent in the inquiry before the Lokayukta cannot be counted for purpose of the period of four years as envisaged under Rule 43 (b)(ii) of the Pension Rules.

Learned counsel for the State has opposed this writ application. A resolution as contained in Memo No. 3406 dated 08.10.2007 has been placed before this Court to submit that the view taken by the disciplinary authority in Annexure '14' to the writ application is the correct view and any deviation from the same would only result in conferring a premium to such officers in respect of whom the inquiry is going on before the learned Lokayukta and during the inquiry the period of four years expired. Learned counsel submits that the resolution dated 08.10.2007 has not been challenged by the petitioner.

Learned counsel further contended that even as at this stage, the petitioner is raising a question as to the jurisdiction of



the Lokayukta in the light of the judgment of this Court in the case of **Bipin Bihari Singh** (supra), the fact remains that the petitioner was well aware of the proceedings before the Lokayukta, he had appeared before the authority but had never questioned the initiation of his proceeding based on the order of the Lokayukta. It is submitted that in absence of complete facts and pleadings in this regard, this question may not be gone into in the present proceeding and such issue may be left open to be considered in an appropriate manner.

Having heard learned counsel for the petitioner and the State, this Court is of the considered opinion that because the resolution of the government as contained in Memo No. 3406 dated 08.10.2007, the relevant paragraph '3(iii)' is not under challenge in the present proceeding, this Court would not take any view on the same. The impugned order, as contained in Annexure '14', is based on resolution of the government as stated above.

In such circumstance, no interference is required with the impugned order. The issue of legality and validity of the resolution is left open in an appropriate proceeding.

(Rajeev Ranjan Prasad, J)

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