

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.2377 of 2016

In
Civil Writ Jurisdiction Case No.7586 of 2013

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1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
 2. The Principal Secretary, General Administration Department, Government of Bihar, Patna
 3. The Principal Secretary, Rural Development Department, Government Of Bihar, Patna
 4. The Commissioner, Purnea Division, Purnea.

... .. Appellant/s

Versus

Ashok Kumar Tiwari, S/o Late Sri Pratap Tiwari, R/o Bank of India Colony, A-18, Near Ram Nagari More, P.S.-Shastri Nagar, District-Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Prabhat Kumar, AC to GA 11
For the Respondent/s	:	Mr. Mrigank Mauli, Sr. Advocate
		Mr. Prince Kumar Mishra, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 19-01-2023

The present Letters Patent Appeal is filed by the State-respondents against the order of the learned Single Judge dated 15.07.2016 passed in CWJC No. 7586 of 2013. The respondent while working as a Block Development Officer (BDO) he is alleged to have committed certain misdeeds and he was subjected to disciplinary proceedings. Charge memo was issued on 11.02.2009 and it was concluded in imposition of penalty of dismissal on 24.02.2012.



02. Feeling aggrieved by the order of dismissal respondent invoke remedy under Article 226 of the Constitution in filing CWJC No. 7586 of 2013 and it was decided on 15.07.2016 in favour of the respondent. However, liberty has been given to the State-respondents in the light of CWJC No. 14595 of 2012 and CWJC No. 20812 of 2012.

03. Para 9 of the order of the learned Single Judge is the gist of the order. Para 9 reads as under:-

"9. It would appear from charge memo that the period of allegation is from 2006 to 2008. All the delinquents, referred to in this order held the post of BDO at one period or the other. The petitioner further submits that his case is better than the case of Surendra Roy and Gayanand Yadav, who also had challenged their dismissal order in C.W.J.C. Nos. 14595 of 2012 and C.W.J.C.No. 20812 of 2012, respectively. This Court after hearing the parties set aside order of dismissal vide common order, dated 20.5.2016. The petitioner submits that all the points taken by the aforesaid petitioners are also available in this case. Furthermore, his case is on better footing as he was transferred from the post of BDO, Palasi, District Araria on 14.10.2005, whereas the charge is of 2006 to 2008."



04. The aforesaid cited decisions of the learned Single Judge has no application to the case in hand for the reasons that it is not common proceedings or joint inquiry so as to take note of decisions reported in CWJC No. 14595 of 2012 and CWJC No. 20812 of 2012. In other words, independently the matter of the respondent is required to be decided by the learned Single Judge. Accordingly, the State-appellant has made out a *prima facie* case to the extent that order of the learned Single Judge is not a reasoned order. Hence, order of the learned Single Judge dated 15.07.2016 passed in CWJC No. 7586 of 2013 stands set aside. CWJC No. 7586 of 2013 stands restored on the file of the learned Single Judge. CWJC No. 7586 of 2013 is of the year 2013 and dismissal order is dated 24.02.2012, therefore, the learned Single Judge is requested to decide CWJC No. 7586 of 2013 within a period of four months.

06. In the result, the present Letters Patent Appeal stands allowed.

(P. B. Bajanthri, J)

Vikash/-

(Arun Kumar Jha, J)

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

