

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1391 of 2018

In
Civil Writ Jurisdiction Case No.10974 of 2005

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1. Bihar State Food and Civil Supplies Corporation Limited, through the Chairman cum Managing Director, Sone Bhawan Birchandra Patel Path, Patna-800001.
 2. The Chairman Cum Managing Director, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 3. The Chief Administration, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 4. The Chief of Finance, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 5. The Chief of Finance Cum Conducting Officer, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 6. The Deputy Chief of Procurement Cum Presenting Officer, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 7. The Desk Padhadhikari, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, Birchandra Patel Path, Patna-800001.
 8. Shree Nirmal Kumar Rai, the then District Manager In-Charge, Bihar State Food and Civil Supplies Corporation Limited, District Officer at Bettiah, District-West Champaran.

... .. Appellants.

Versus

Dhrupan Rout Son of Late Gurucharan Ram Resident of Village Bathna Naya Tola, Belbanwan, Police Station Bairia, District Bettiah (West Champaran).

... .. Respondent.

Appearance :

For the Appellants	:	Mr. Shailendra Kumar Singh, Advocate.
For the Respondent	:	Mr. Pramod Kumar, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 05-12-2023

The appellants-Bihar State Food and Civil Supplies



Corporation Limited (for short 'Corporation') have assailed the order of the learned Single Judge dated 22.03.2018 passed in C.W.J.C. No.10974 of 2005.

2. Respondent Dhrupan Rout, who was working as a Class-IV employee with the appellants-Corporation, he was directed to discharge the duties of post of Class-III, while doing so he was handling certain preparation of bills. He had prepared certain bills of Class-IV employees and forwarded the same to the next higher authority and it has reached the head office. The appellants-Corporation are of the view that whatever the bills submitted by the respondent in favour of 22 workers are not in accordance with law, therefore, he was subjected to disciplinary proceedings and it was concluded in imposition of penalty of dismissal from service. Dismissal order was subject matter of C.W.J.C. No.10974 of 2005 decided on 22.03.2018. Learned Single Judge has taken note of various legal lacunas in the departmental proceedings. The learned Single Judge has also taken note of identical matter and in paragraphs-10 and 11, it is stated as under:

“10. Earlier Jageshwar Chaudhary against whom also similar proceeding was initiated by the respondents and order of dismissal was passed had approached this Court in



C.W.J.C. No.23405 of 2012 in which the original records were called by this Court for its perusal and in paragraph Nos. 5 and 6 this Court observed as following:-

“5. In view of categorical stand taken in the writ application that there was absolutely no enquiry held by the enquiry officer and no witnesses were examined at all, I had directed the respondents to produce the entire original records of the disciplinary proceeding. Those records have been produced before this court. On perusal of the records of the disciplinary proceeding, I find that no presenting officer was appointed to prove the charge leveled against the petitioner. The attendance of the petitioner on 02.11.2004 is there on record. Attendance of District Manager, Bettiah and that of Assistant Account Officer on 02.11.2004 are also there on record but no statement of any witness has been recorded by the conducting officer/enquiry officer. At page 34 of the records, I find that the Assistant Accounts Officer in his own hand writing has given his statement. It does not indicate that such statement was recorded at the instance of the Enquiry Officer. From the records, it cannot be said that the said statement of Assistant Accounts Officer was within the knowledge of the petitioner, though such statement of the Assistant Accounts Officer has been taken into consideration by the disciplinary authority. It also appears that no other witness was examined. There is nothing on record to show that even the hand written statement



of the said Assistant Accounts Officer, which is available at page 34, was ever supplied to the petitioner. Thereafter, second show cause notice was issued to the petitioner which is there on record.

6. From the original records, as indicated above, I find that as a matter of fact there was absolutely no enquiry in the name of disciplinary proceeding held against the petitioner. Neither any witness was examined nor any document exhibited or produced before conducting officer, in the presence of the petitioner in support of the charge. In my view, the entire proceeding, in the facts and circumstances of the case, is vitiated. The report of the enquiry officer is perfunctory without any basis or evidence.”

11. The L.P.A. No. 1096 of 2014 preferred by the respondents was dismissed by Division Bench of this Court on 20.02.2018.”

3. In the result, the learned Single Judge has set aside the order of dismissal and its affirmation by the Reviewing authority and further directed as under:

“13. In the result, the writ petition is allowed. The order of Disciplinary Authority as well as Reviewing Authority is set aside and the respondents are directed to pay full salary for the intervening period from the date of



dismissal of petitioner till the date of his superannuation. The petitioner is also entitled for salary for the period during which he remained suspended and only subsistence allowance was paid to him.

14. The petitioner is also entitled for all post retirement benefits and same should be sanctioned and paid within three months from the date of production/receipt of copy of this order.”

4. Feeling aggrieved by the order of the learned Single Judge, the present L.P.A. is filed by the appellants-Corporation.

5. Learned counsel for the appellants vehemently contended that it is a case for remand to the disciplinary authority if there are any legal lacunas in the disciplinary proceedings. In support of the aforementioned contention, he has cited Coordinate Bench decisions in L.P.A. No.1392 of 2018 (Bihar State Food and Civil Supplies Corporation Limited and others Versus Mahmudul Haque), L.P.A. No.1393 of 2018 (Bihar State Food And Civil Supplies Corporation Limited and others Versus Amardev Hazra) and L.P.A. No.1096 of 2014 (The Bihar State Food & Civil Supplied Corporation Limited and others Versus Jageshwar Choudhary and another).



6. The cited decisions are distinguishable on the factual aspects of the matter. In those Judgments, there are certain financial implications whereas in the present case, respondent was not involved in any financial implication so as to cause financial loss to the appellants-Corporation. Moreover, respondent was a Class-IV employee, he was directed to handle Class-III post. Assuming that respondent had committed certain irregularities in forwarding certain bills, in that event it was bounden duty of the next higher authorities like Class-II and Class-III officials and so also in the Account Section. There is no iota of material evidence to the extent that there were any financial loss caused to the appellants-Corporation. That apart, Appellants-Corporation have not taken any action against superior to the respondent-Class-IV employee. Further, we have noticed that the respondent is already aged about 73 years. At this belated stage, it is not appropriate to remand the matter to commence the inquiry from the defective stage. In view of these facts and circumstances, the appellants-Corporation have not made out a case so as to interfere with the order of the learned Single Judge dated 22.03.2018 passed in C.W.J.C. No.10974 of 2005.

7. Accordingly, the present L.P.A. stands dismissed.



If the appellants-Corporation have not settled dues of the respondent in the light of the order of the learned Single Judge, the same shall be settled within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.12.2023.
Transmission Date	NA

