

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11460 of 2022

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Bihar Pradesh Vidyut Shramik Sangh through its General Secretary, Ranjeet Kumar Mishra, aged about 42 years, Male, Son of Late Arvind Mishra, resident of F-(Hudco) 170, Rajbanshi Nagar, B.S.E.B Colony, P.S. - Shastri Nagar, Patna, Phulwari, Patna, L.B.S. Nagar, Bihar.

... .. Petitioner/s

Versus

1. The Chief Secretary through State of Bihar.
2. Shri Pratayay Amrit the then Principal Secretary (energy department)-cum-Chairman-cum-Managing Director, BSPHCL.
3. Shri Sanjeev Hans, Principal Secretary (energy department)-cum-Chairman-cum-Managing Director BSPHCL.
4. Shri Sanjeevan Sinha, Director (H.R.), Bihar State Power Holding Company Limited, Patna.
5. Managing Director, Bihar State Transmission Company Limited, Patna.
6. Shri Bipin Kumar Singh, General Manager (HR/Adm.), Bihar State Power Holding Company Limited.
7. Shri Sunil Kumar Singh, Dy. General Manager (P), Bihar State Power Holding and Transmission Company Limited, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jitendra Kumar Rai, Advocate
For the Respondent/s	:	Mr. Umesh Prasad Singh, Sr. Advocate
		Mr. Vinay Kirti Singh, Sr. Advocate
		Mr. Kumar Manish, Advocate
		Mr. Vijay Kumar Verma, Advocate
		Mr. Akhileshwar Singh, Advocate

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

Date : 02-01-2023

Heard learned counsels for the parties.

2. In the instant writ petition, petitioner has prayed for following reliefs:-

(i) To direct the Respondent Authority to



take punitive action against the Respondent no. 7 as his extension of the tenure as Deputy General Manager (Personnel) in collusion with senior officials from 01.10.2019 to 30.09.2020 vide Office Order 1651 dated 31.08.2019, from 01.10.2020 to 30.09.2021 and 01.09.2021 to 30.09.2022 is in contravention of the provisions laid down in Memo no. 13 dated 11.07.2019 of Bihar State Power Holding Company Limited and its Subsidiary/Allied companies for the purpose of contractual employment/extension of the contract.

(ii) To direct the Respondent Authority to examine the irregularities in engagement of Respondent No.7 as Deputy General Manager (Personnel) vide his Letter No. 594 dated 20.02.2020 addressed to General Manager (Human Resources/Administration) Bihar State Power (Holding) Company Limited, Patna has stated that all complaints of the Mazdoor Union vide Letter No. 42/16 dated 13.09.2019, Letter No. 58/18 dated 19.07.2018, Letter No. 79/18 dated 10.09.2018, Letter No. 91/18 dated 19.09.2018, Letter No. 98/18 dated 31.10.2018, Letter No. 06/19 dated 10.03.2019, Letter No. 39/19 dated 26.08.2019, Letter No. 71/19 dated 06.12.2019 has been made against Respondent no.7 regarding irregularities committed by him. Short description of irregularities committed by him Respondent No.7 are as follows-

A. Appointment/ regularization of service of switch board operators (SBO)/ Assistant operators without proper verification of educational/ technical qualification under Patna Circle/ Patna Transmission zone, while he was Deputy Director (Personnel), this shows undue personal gain/ interest/monetary gain.

On proper verification of educational/ technical qualification about 20 SBO/Assistant Operators have been dismissed from service on the basis of fake documents submitted by the candidates at the time of appointment/Regularization.

B. Recommendation/proposal for



merger of post of field cadre section officer and administrative officer and creation of total number of 39 posts of clerical cadre administrative officer in 2016 beyond the limits of state government, which shows his undue favour towards clerical cadre which caused financial burden on the company.

C. Respondent No.7 again recommended/proposed for creation of post of clerical cadre administrative officer to a total number of 127 posts (ignoring the facts and proposal give by the office against the creation of posts of clerical cadre administrative officer and Senior Manager) beyond the rules and regulations/ policy of the state government, which caused heavy and unnecessary financial burden on the company. This clearly shows personal/undue interest of Respondent No.7.

D. Respondent No.7 took undue advantage of his high position and influenced the office/officers/ Staffs and got engaged on contract as DGM (P) without submitting health certificate and affidavit regarding declaration that no vigilance case /police case/ departmental proceeding is pending against him, while he should have himself followed the Rules/ policies of the company/ state government in order to set example for others but he did exactly contrary to this act.

(iii) To direct the Respondent Authority to make recovery the amount paid to the Respondent No.7 whose engagement has been made violating the provisions laid down in Memo no.13 dated 11.07.2019 of Bihar State Power Holding Company Limited and its Subsidiary/ Allied companies for the purpose of contractual employment/extension of the contract.

(iv) To direct the Respondent Authorities not to take any punitive action or to pass any adverse remarks in the service book of those complainants/ whistle blowers as the action of complainant was to make public or to bring to the notice of the Respondent Authorities, the favoritism



shown in support of Respondent No. 7.

(v) To any other relief/s the petitioner is entitled for in facts and circumstances of the case."

3. In Paragraph-3 of the affidavit of Sanjeev Hans, Principal Secretary, Department of Energy, Government of Bihar, Patna, with Additional Charge of Chairman-cum-Managing Director, Bihar State Power Holding Company Limited stated as under:-

"3. That the deponent humbly and respectfully stated that the deponent has the highest regard for this Hon'ble Court and always believes in Rule of Law and am duty bound to bring on record all the relevant facts, rules, circulars and decisions of the competent authorities pursuant to which the respondent No.7 Mr. Sunil Kumar Sing Ex-Deputy General Manager (Personnel) Bihar State Power Holding Company Ltd. (for brevity sake hereinafter referred to as BSPHCL) was appointed on contract basis after superannuation on 30.09.2019 from the post of Deputy General Manager (Administration) with effect from 01.10.2019 to 30.09.2020 and was allowed 3 yearly extension lastly from 01.10.2022 to 30.09.2023 but he had already resigned on 01.12.2022 to join an assignment as General Manager (Cricket Operation) Bihar Cricket Association".

4. In the light of the aforesaid affidavit, the present petition do not survive for consideration.

5. Accordingly, the writ petition stands disposed of.

6. At this stage, learned counsel for the petitioner



submitted that 7th respondent's appointment was wholly illegal and contrary to relevant law in respect of governing the post. In other words, illegally he has been appointed and discharged the duty and therefore, he is not entitled to monetary benefits. The same cannot be appreciated for the reasons that even though his appointment is irregular or illegal, he has discharged the duties of the post and therefore, he is entitled to consolidated pay/remuneration attached to the post. In this regard no question of holding any inquiry. However, the State Government in future must appoint in accordance with the relevant provisions of law while adhering to Article 14 and 16 of the Constitution of India.

7. The Principles laid down by the Apex Court in the case of *Renu & Others Vs. District & Sessions Judge, Tis Hazari Courts, Delhi and another* reported in (2014) 14 SCC 50 shall be taken note of for future appointments.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

rakhi/Ashish

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.01.2023
Transmission Date	NA

