

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.435 of 2019

In
Letters Patent Appeal No.1577 of 2010

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Manager Singh, Male, aged about 51 years, Son of Late Bishun Singh
Resident of Village-Amadarh, Post Karmaini, P.S. Sanjhauli, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Resources Department, Government of Bihar, Patna.
4. The Superintending Engineer, Flood Control Circle, Buxar.
5. The Executive Engineer, Sone Canal Division, Buxar.
6. The Assistant Engineer, Sone Canal Sub-Division, Nokha, Buxar.
7. Tulsi Singh Son of Late Bishun Singh Resident of Village-Amadarh, Post Karmaini, P.S. Sanjhauli, District Rohtas.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nityanand, Advocate

For the Opposite Party/s : Mr. Satish Kumar Sinha, Advocate
Mr. Deepak Sahay Jamuar, AC to AAG 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

6 20-07-2023 Heard learned counsels for the respective parties.

2. In the present Civil Review petition, the petitioner
is seeking for review of the order dated 08.09.2017 passed in
L.P.A. No. 1577 of 2010.



3. There is delay of two years two months and twelve days in filing the present review petition. Having regard to the status of the petitioner and the reasons assigned for condonation of delay, we proceed to allow I.A. No. 1 of 2023 for condonation of delay in filing Civil Review petition No. 435 of 2019.

4. Learned counsel for the petitioner submitted that petitioner was appointed on compassionate ground in the Water Resources Department on 01.07.2002 in terms of the guidelines for compassionate appointment dated 05.10.1991. Thereafter, the official respondents are in receipt of representation/complaint of the petitioner's kith and kin complaining that the petitioner is not maintaining the family members. In this regard, show cause notice was issued to the petitioner and petitioner had submitted his reply and, thereafter, Committee was constituted. The Committee has taken a decision that the petitioner was not maintaining his family members resulted in various orders and ultimately resulted in termination of the petitioner from service which was subject matter of C.W.J.C. No. 13178 of 2004 in which the petitioner has suffered an order.

5. Thereafter, the petitioner preferred L.P.A. No. 1577



of 2010 and it was disposed of on 08.09.2017 while affirming the order of the learned Single Judge dated 09.08.2010 passed in C.W.J.C. No. 13178 of 2004.

6. The present review petition is filed stating that Writ Court as well as L.P.A. Court have committed error in not noticing that petitioner was a permanent Government employee/servant of Water Resources Department. If he has committed alleged misconduct, in such an event the proper course of action on behalf of respondent - department is to invoke Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short CCA Rules, 2005) or un-amended CCA Rules, 2005. The same has not been appreciated by the Writ Court as well as L.P.A. Bench. This contention is taken for the first time, that too, in Civil Review petition, therefore, scope of review under Order 47 Rule 1 CPC is limited. There is no error apparent on the face of record is required to be examined. Hon'ble Apex Court in the case of ***S. Murali Sundaram vs. Jothibai Kannan and Ors.*** in Civil Appeal Nos. 1167-1170 of 2023 (dt. 24.02.2023) read with ***Parsion Devi and Ors. vs. Sumitri Devi and Others*** reported in (1997) 8 SCC 715 has dealt with the present matter.

7. Nodoubt, the petitioner has not raised the



contention that he was a permanent employee of Water Resources Department and he had a status of Government servant and any misconduct committed by him, the relevant provision for the concerned authority is to invoke CCA Rules, 2005 and in departmental inquiry if the allegations/charges are proved, in such an event the relevant punishment could be imposed, the same cannot be examined in the review petition. Therefore, the present Civil Review petition stands dismissed.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

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