

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9897 of 2016

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Ajay Kumar Son of Sri Deo Narayan Singh Resident of Village and PO -
Pasaho, P.S- Bithan, District Samastipur,.

... .. Petitioner/s

Versus

1. The Bihar State Power Holding Company Limited through its Chairman cum Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The Managing Director, South Bihar Power Distribution Co. Ltd., SBPDCL, Vidyut Bhawan, Bailey Road
3. The General Manager HR/Admin. SBPDCL. Vidyut Bhawan, Patna.
4. Officer on Special Duty HR/Admin. SBPDCL Limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bajarangi Lal, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
	:	Mr. Akhileshwar Singh, Advocate
	:	Mr. Venkatesh Kirti, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 16-02-2024

Heard Mr. Bajarangi Lal, learned counsel for the petitioner and Mr. Vinay Kirti Singh, learned Senior counsel appearing on behalf of the respondents.

2. The present writ petition has been filed for the following reliefs;

- i. For quashing of order passed by the Chairman cum Managing Director, BSPHCL, Patna contained in letter no.93 dated 04.03.2016 where under and whereby the appeal preferred by the



petitioner has been rejected holding that the punishment awarded by the disciplinary authority is proper and valid.

ii. For setting aside the order of punishment contained in resolution no. 2045 dated 14.12.2013 issued by respondent no.4 by which petitioner has been awarded punishments of Censure and stoppage of two increment with cumulative effect.

iii. For a direction upon the respondents to grant consequential benefits including seniority and promotion etc. to the petitioner to which petitioner is entitled.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Junior Electrical Engineer under erstwhile Bihar state Electricity Board (BSEB), Bihar Patna on 11.12.2000 and he was posted at Electric Supply Section, Vaishali at Hajipur. In the year, 2010 he was transferred to Lakhisarai. He has received a resolution no. 69 dated 10.01.2011 issued under signature of the then Joint Secretary of the Board by which the



departmental proceeding was initiated against the petitioner and the petitioner was asked to submit his written statement or defence for the charges framed against him within fortnight before the enquiry officer.

4. Learned counsel for the petitioner submits that the petitioner was communicated with Article of charges wherein it was stipulated that one M/s Balajee Ingot India Pvt. Limited, Lakhisarai had filed application for enhancement of industrial load by 918 KVA through application no. 608 dated 10.12.2009 and had deposited requisite fee vide receipt no. 373718 dated 10.12.2009. But due to non-cooperation of petitioner as he did not submit feasibility report in time, nine months delay occurred in raising demanded load to consumer which caused revenue loss to the Board to the tune of lacks of rupees despite the fact that Assistant Electrical Engineer, Lakhisarai had asked the petitioner to submit feasibility report and it appears that the petitioner has violated orders of departmental authorities.

5. Learned counsel for the petitioner submits that the departmental proceeding was initiated against the petitioner without seeking his show cause and without affording him opportunity of hearing and as such very initiation of



departmental proceeding itself was in teeth of principles of natural justice but the petitioner had appeared before the enquiry officer and submitted his written statement of defence on 24.01.2011 within a stipulated time and requested the enquiry officer to exonerate the petitioner from the alleged charges. During the departmental proceeding, prosecution examined three witnesses in support of charges levelled against the petitioner and thereafter petitioner submitted its written notes of arguments in defence denying the allegations and requested to exonerate him from the proceeding but the enquiry officer without considering the contention raised by the petitioner had submitted enquiry report holding the charges found proved against petitioner and the disciplinary authority had issued second show cause notice to the petitioner vide its resolution no. 1723 dated 12.08.2011. On 19.09.2011 petitioner had submitted his reply to the second show cause notice and pleaded his innocence and requested to exonerate him from the charges. The disciplinary authority vide resolution no. 2045 dated 14.12.2013 awarded punishments of censure and stoppage of two annual increments with cumulative effect holding that charges levelled against petitioner is found proved. The petitioner has challenged the same in Memo of Appeal



before the Chairman cum Managing Director of the Board on 20.02.2014 but the same was pending then the petitioner has filed CWJC No. 6201 of 2015 before this Hon'ble Court and the same was disposed of vide order dated 21.04.2015 with the direction to the Appellate Authority to dispose of the appeal of the petitioner within a period of four months. In compliance of the order of this Hon'ble Court, the petitioner has filed a representation along with copy of the order dated 21.04.2015 in CWJC No. 6201 of 2015 before the Appellate Authority on 03.08.2015 but the Appellate Authority without considering the grounds and submission raised by the petitioner in his memo of appeal has rejected the appeal of the petitioner on 29.02.2016 and the same was communicated to the petitioner vide order dated 293 dated 04.03.2016.

6. Mr. Vinay Kirti Singh, learned senior counsel appearing on behalf of the Board submits that the proceed was initiated against the petitioner and concluded in accordance with law and ample opportunity has been given to the petitioner and the respondents have followed the principles of natural justice and after due consideration of all the facts the punishment order has been passed against the petitioner. He further submits that the repeated reminder has been given to the



petitioner to submit the feasibility report in the present matter as sought by the Assistant Electrical Engineer at Electric Supply Section, Lakhisarai but the petitioner to submit the report in time and after delay of some time although the petitioner has submitted feasibility report on 10.09.2010 which delayed the process of enhancement of contract demand of consumer M/s Balajee Ingot India Pvt. Limited, Lakhisarai. Due to inaction of the petitioner the board caused huge revenue loss and due to inaction of the petitioner, a departmental proceeding was initiated against the petitioner and the enquiry officer was found the charges levelled against the petitioner and the disciplinary authority agreeing with the findings of the enquiry officer a second how cause was issued to the petitioner and after due examination of the reply received from the petitioner which was found unsatisfactory then the petitioner was awarded punishment of stoppage of two annual increments with cumulative effect. Thereafter, the petitioner has preferred an appeal but the same was dismissed vide order dated **21.04.2015.**

7. Learned senior counsel for the respondents submits that in course of hearing the petitioner raised following two points for consideration.



(I) In course of departmental proceeding he was not allowed to appear with his advocate.

(ii) In case of H.T. Consumer, the Junior Electrical Engineer are not intended to prepare feasibility report.

The matter was examined by the Appellate Authority in detail and it is found that as per sub Rule 8 of Rule 17 of the CCA Rules, 2005 a Government servant can only be allowed to appear along with the advocate where the representing officer is a legal practitioner. In the present case, the representing officer was not a legal practitioner. Therefore, as per aforesaid Rule, the petitioner was not allowed to appear with advocate and with respect to the second point raised by the petitioner learned counsel for the Board submits that the petitioner in course of hearing himself accepted that he was prepared feasibility report on H.T. Consumer while he was posted as Junior Electrical Engineer at Purnea and it appears from the aforesaid fact that the petitioner has been awarded for the punishment for charge of misconduct found established in he proceeding and Appellate Authority has also rejected the appeal of the petitioner after giving the due opportunity of hearing and finding that no merit in the writ petition.



8. In view of the aforesaid, it appears that the respondents have followed the procedure as prescribed for the proceeding and has rightly rejected the appeal of the petitioner. There is no infirmity in the order impugned. Accordingly, writ petition is dismissed.

(Rajesh Kumar Verma, J)

ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2024
Transmission Date	NA

