

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22055 of 2014

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Shamim Haider Son of Sri Abdul Hakim Resident of Village Kaew, P.S.
Bhorey, District Gopalganj, lastly posted as Junior Engineer, Jiradei Block.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Rural Development Department, Bihar, Patna.
2. The District Magistrate, Siwan.
3. The Deputy Development Commissioner, Siwan.
4. The District Engineer Zila Parishad, Siwan.
5. The Director, Accounts Administration and Self Employment, Siwan.
6. The Assistant Engineer National Rural Irrigation Programme, Siwan.
7. The Program Officer, Zeeradei, Siwan.
8. The Mukhiya, Hasua, Zeeradei, Siwan.
9. The Panchayat Rojgar Sewal, Hasua, Zeeradei, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Singh
For the Respondent/s	:	Mr. Aslam Ansari, APP
For the Zila Parishad	:	Mr. Dhananjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-01-2024

Heard Mr. Arbind Kumar Singh, learned counsel for the petitioner, Mr. Dhananjay Kumar, learned counsel appearing on behalf of the Zila Parishad, Siwan as well as Mr. Aslam Ansari, learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for direction upon the respondents to reinstate the petitioner on the post of Junior Engineer with all consequential benefits after setting aside the order of termination dated 25.11.2013 passed by the



respondent no. 5 (Annexure-13) and order dated 05.09.2014 (Annexure-14) passed by the respondent no. 2.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Junior Engineer and he has joined on the post in question on 21.01.2009. Subsequently, vide order issued under memo no. 1803 dated 10.07.2010 issued by respondent no. 3, the petitioner has been relived and directed to join in the office of Program Officer Zeeradei and accordingly, the petitioner has been transferred to Zeeradei. The petitioner has been allotted work of Hasua Badeya, Chhotka Manjha, Zeeradei, Akolhi, Chandpali, Titra and Majhwalia Panchayat and accordingly, the petitioner joined the office of Program Officer, Zeeradei where two works under Scheme No. 1 2010-11 Mahatma Gandhi National Rural Employment Scheme to fill soil in the campus of Middle School, Hasua and by Scheme No. 2 2010-11 to fill soil in the play field of High School, Hasua is pending and for both works estimate has been submitted by the earlier posted Junior Engineer and petitioner after his joining, started functioning accordingly. He further submits that the respondent authority has received a complaint made by Sri Basudev Acharya, the Hon'ble Member of Parliament and after receiving the said complaint, the respondent no. 5 has conducted



confidential enquiry and got the matter enquired and directed respondent no. 4 to submit a report with respect to Scheme No. 1 of 2010-11 and Scheme No. 2 of 2010-11 as well as enquiry report with respect to soil filling work at High School, Hasua vide letter no. 110 dated 24.07.2013. He further submits that from perusal of the enquiry report submitted by the respondent no. 4, the actual area differs from the area shown in estimate produced by the Junior Engineer and it appears that the then Junior Engineer has not inspected the site for making the estimate. The petitioner has not submitted the estimate of the aforesaid work conducted under Scheme no. 1 of 2010-11 and Scheme No. 2 of 2010-11 but without verifying the another estimate submitted by the then Junior Engineer the petitioner all of a sudden vide letter issued under memo no. 2299 dated 14.08.2013 by respondent no. 2 has been asked show cause for allegation on the basis of enquiry report submitted by the respondent no. 4. The petitioner has replied to the show cause notice on 27.08.2013 stating all the aforesaid facts and requested the respondent concerned to exonerate him from the charges levelled against him in the show cause notice dated 14.08.2013. He further submits that on the basis of the enquiry report submitted by the respondent no. 4, the respondent no. 3



has also lodged F.I.R bearing Zeeradei P.S. Case No. 63 of 2013.

4. Learned counsel for the petitioner submits that the respondent no. 3 without giving any chance of hearing oral or starting any departmental proceeding and also without giving any chance to file second show cause relying on the alleged allegation made by the respondent no. 4 has passed order of termination of service of petitioner, by order dated 25.11.2013 issued under memo no. 4490. The petitioner has challenged the same in Appeal No. 22 of 2014-15 before the respondent no. 2 but the respondent no. 2 has been pleased to dismiss the appeal of the petitioner vide order dated 05.09.2014. He further submits that it appears that the action of respondent authorities is against the principle of natural justice and petitioner has not given any opportunity to participate in the proceeding and without initiating any proceeding, the petitioner has been terminated from the services.

5. Learned counsel appearing on behalf of the respondents submits that the petitioner was terminated by the competent authority on finding of embezzlement of public money on account of Yojna no. 1 of 2010-11 and Yojna no. 2 of 2010-11 under MGNREGA in Hasuwa Panchayat and it was found in the enquiry that the petitioner was responsible for



supervising and executing the work in question as well as correct recording of work done in the measurement book. And it was revealed that the petitioner was involved in the siphoning of public fund in respect of the aforesaid schemes and the respondent authority after giving the due opportunity to the petitioner and after following the principle of natural justice and also after considering the enquiry report dated 23.07.2013 submitted by the respondent no. 4, the respondent no. 2 has issued show cause notice to the petitioner. The said memo shows that in respect to Scheme No. 1 of 2010-11, work of the value of Rs. 1,05,998/- was found to have been done whereas in measurement book work of the value of Rs. 3,99,900/- has been shown. Similarly, work of the value of Rs. 1,29,498/- was found on the spot by the enquiry team whereas work of the value of Rs. 4,08,830/- has been recorded in the measurement book in respect of Scheme No. 2 of 2010-11.

6. Learned counsel appearing on behalf of the respondents further submits that this mismatch shows that embezzlement to the tune of Rs. 7,37,668/- has been done and due to this the F.I.R was also instituted against the petitioner and the order impugned was passed in accordance with law and after giving due opportunity to the petitioner and after considering



the reply to the show cause notice of the petitioner, the authority has passed the impugned order and in fact, the petitioner had been appointed as Junior Engineer on contractual basis and only principle of natural justice should be followed in the present case and that is being done.

7. In view of the aforesaid, there is no infirmity in the impugned order dated 25.11.2013 and 05.09.2014 passed by the respondent nos. 5 and 2 respectively, and the respondents have followed the principle of natural justice and after giving due opportunity to the petitioner to present his case, the impugned order has been passed and the same was confirmed in Appeal No. 22 of 2014-15.

8. Accordingly, the writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
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