

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8654 of 2019

=====

Chandrakant Chaudhary S/o Late Heera Laal Chaudhary, Resident of Village-Khaira Dorain, P.S.- Tarapur, District- Munger, at present Chandrakant Chaudhary, S/o Late Heera Laal Chaudhary, Middle Tola, Sahora, P.S.- Anantpur, Anandpur Hayaghat, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Joint Secretary-cum-Director, Land Acquisition and Rehabilitation, Water Resource Department, Government of Bihar, Patna.
4. The Special Land Acquisition Officer, Gandak Project Muzaffarpur, District-Muzaffarpur.
5. The Special Land Acquisition Officer, Flood Control Project, Anisabad, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Hari Shankar Roy
For the Respondent/s : Mr.Vikash Kumar (Sc11)

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 22-07-2024 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition is filed for quashing of the order no. 87 dated 10.10.2018 passed by the Joint Secretary-Cum-Director, Land Acquisition And Rehabilitation, Water Resource Department, Government Of Bihar, Patna whereby and whereunder, petitioner has been dismissed from service without considering the directions dated 20.08.2018 of this Hon'ble Court in C.W.J.C. No. 935 of 2015 further to quash the



order no. 10 dated 14.01.2019 bearing memo no. 75 dated 14.01.2019 passed by the Additional Chief Secretary, Water Resources Department, Government Of Bihar, Patna whereby and whereunder, the appeal filed on behalf of petitioner challenging the order dated 10.10.2018 was rejected without considering the illegality committed by disciplinary authority and directing the respondents that in view of clear finding made in C.W.J.C. No. 935 of 2015 on 20.08.2018 petitioner should have been treated under suspension and thereby the petitioner is entitled for benefits admissible during suspension.

3. Learned counsel for the petitioner submits that during the relevant period petitioner was posted on the post of Amin (MAPAK) in the office of Special Land Acquisition Officer, Gandak project, Muzaffarpur. He further submits that Niraj Kumar Singh, Dhiraj Kumar Singh and Rakesh Kumar Singh, all sons of Sri Brindra Kumar Singh are the permanent resident of Benipur Dakshini, P.S.-Aurai, District-Muzaffarpur and their present address is Shahwajpur in the town of Muzaffarpur, District-Muzaffarpur and these persons land have been acquired by the State Government for public purposes and award for payment of compensation amount was prepared in the names of the land holders but the award for Rs.5,74,129/-



prepared in the name of Dhiraj Kumar Singh was fraudulently accepted by one Niraj Kumar Singh who is the brother of Dhiraj Kumar Singh by submitting wrong verification of Dhiraj Kumar Singh. Dhiraj Kumar Singh later on raised objection that he did not receive the award amount and the officers and staff of the office of Special Land Acquisition Officer, Gandak Project, Muzaffarpur were alleged misappropriation of his award money.

4. He further submits that the employees of the office of Land Acquisition Officer, Muzaffarpur including the petitioner requested the Special Land Acquisition Officer, Gandak, Project, Muzaffarpur to take legal actions against Niraj Kumar, the brother of Dhiraj Kumar who had received the award money. Thereafter, Vigilance took steps to rope the petitioner in false vigilance case on the complaint contained in Annexure-3 against the petitioner and petitioner was arrested on 07.09.2011. Thereafter, petitioner was put under suspension by issuance of office order no. 89 bearing Memo No.1584 dated 15.09.2011 with effect from 07.09.2011.

5. He further submits that the petitioner was released on bail and submitted his joining on 30.03.2012 before Special Land Acquisition Officer, Gandak Project, Muzaffarpur and the joining date 30.03.2012 was accepted and suspension was also



recalled but it was also said in the office order no.63 bearing Memo No.731 dated 08.05.2012 that considering the nature of the charges, order putting the petitioner under suspension with effect from 30.03.2012 was being passed separately. Thereafter, the office Order No. 65 bearing Memo No.730 dated 08.05.2012 was issued by which it was decided to initiate departmental proceeding against petitioner for the charges that petitioner was arrested on 07.09.2011 by Vigilance. Thereafter, the respondents have issued letter no.501 dated 14.03.2014 in form of 2nd show cause notice asking show cause for terminating the services of petitioner. Under these circumstances petitioner moved before this Hon'ble Court in C.W.J.C. No.6851 of 2014 challenging the 2nd show cause notice.

6. He further submits that Disciplinary Authority during pendency of the C.W.J.C No. 6851 of 2014 passed order No.31 dated 21.04.2014 by which petitioner was awarded major punishment U/R-14(x) of the Bihar C.C.A Rule 2005 and service of the petitioner was dismissed. Thereafter, petitioner has moved before this Hon'ble Court and vide order dated 26.06.2014 passed in C.W.J.C. No. 6851/2014 in which disciplinary authority has passed order against the petitioner and this order was challenged in Appeal and it was affirmed.



Thereafter, the petitioner has preferred writ petition before this Hon'ble Court in C.W.J.C. No. 935/2014 in which vide order dated 20.08.2018, this Hon'ble Court has pleased to remand this matter with an observation that *“In view of the position emerges from the order of the Disciplinary Authority as well as the Appellate Authority dated 21.04.2014 and 20.07.2018 respectively, this Court considers that interest of justice would be served if the Disciplinary Authority re-examines the issue from the stage after submission of the enquiry report. The matter is therefore, remanded to the stage after submission of the enquiry report. Disciplinary Authority would be obliged to conclude the proceedings taking into consideration the petitioner's response to the second show cause dated 14.07.2014 in accordance with law by a reasoned and speaking order treating the petitioner as under suspension”*.

7. Learned counsel for the petitioner further submits that in the light of the observation made by this Hon'ble Court, the petitioner has filed his representation and upon granting opportunity, the punishment order has been passed, thereafter, the petitioner has preferred appeal which is Annexure-24. Counsel submits that in appeal he has raised each and every points and his appeal was again dismissed vide order dated



10.10.2018 but there was no consideration of any of the points taken in the memo of appeal and again cryptic and non-reasoned order has been passed. He further submits that due to these reasons petitioner has moved before this Hon'ble Court again by way of the present writ petition.

8. Counsel for the State submits that all the points of the petitioner has been taken into consideration then only the order has been passed.

9. Upon perusal of the order passed in the Appeal, it transpires to this Court that series of points has been raised in the memo of appeal which is annexed as Annexure-24 but it has only been accepted in the order sheet by the appellate authority that memo of appeal has been filed in which different points has been taken but the said points were not taken into consideration by the appellate authority and it has been rejected only on the ground that no new material or witnesses has been produced.

10. In the light of the submission made by the parties, it transpires to this Court that petitioner has raised all the points in the memo of appeal but the appellate authority at the time of deciding memo of appeal has not considered at all any of the points mentioned, and therefore, the order passed by the appellate authority i.e. Order No. 10 dated 14.01.2019 bearing



memo no. 75 dated 14.01.2019 passed by the Additional Chief Secretary, Water Resources Department, Government Of Bihar, Patna is hereby set aside.

11. The appellate authority is directed to pass reasoned and speaking order considering all the points taken in memo of appeal within 60 days from the production/receipt of this order.

12. Learned counsel for the petitioner submits that during the pendency of the proceedings, petitioner has superannuated from his services. It is directed to the appellate authority that if appeal has been decided in the favour of the petitioner then entire retiral benefits shall be paid to the petitioner within the said period.

(Dr. Anshuman, J)

Sunnykr/-

U			
---	--	--	--

