

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13300 of 2013

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Birender Kumar, Typist cum-clerk, Son Of Late Bisheshwar Lal, Resident of
North Patel Nagar, P.O.- Keshrinagar, P.S. Shashtrinagar, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar Secretary, Enerre Department, Patna
2. Bihar State Electricity Board, Patna Through Its Chairman, Vidyut Bhawan,
Patna
3. The Bihar State Electricity Board, Through Its Secretary, Vidyut Bhawan,
Bailey Road, Patna
4. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Patna
5. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Patna
6. The General Manager-Cum-Chief Engineer, Central Area Electricity Board,
Serpentine Road, Patna
7. The Electrical Superintending Engineer, P.E.S.U. (East) Circle Mangles
Road, Patna- 15

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Umesh Kumar Singh, Advocate
For the Respondent/s : Mr.Manoj Priaydarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 30-09-2024 Petitioner has *inter alia* prayed for following reliefs

in the paragraphs No.1 of the writ petition:-

*“That this is an application for issuance of a writ
of certioriri for quashing the memo no.2334/dated 03.09.2012
and Order dated 29.08.2012 passed by Chairman
(Respondent No.) Bihar State Electric Board, Patna whereby
and whereunder the respondent Chairman has rejected the
representation dated 30.05.2012 (Annexure -7) along with
representation dated 7.11.03 (Annexure -6) filed by the
petitioner.*

AND

*To issue a writ in this nature of mandamus
directing the respondent authorities to return the recovery
amount of Rs.-1,64,405/- (One Lac Sixty Four Thousand,
Four Hundred and Five rupees Only) from the salary of the
petitioner.*



AND

To allow other reliefs/reliefs for which the petitioner is entitled.”

2. It appears from the pleadings of the writ petition that the petitioner was appointed on the post of Typist-cum-Clerk in the year 1974 and was working under the Administrative and Financial Control of Assistant Electrical Engineer at Patna, Electricity Supply Division. Thereafter he was transferred and posted at Patna Electric Supply Sub-Division in the year 1980 and he retired from the post of Correspondence Clerk on 30.04.2012. An order for recovery of 42.5% of excess amount paid to Nand Lal Chowkidar that amounts to Rs.1,64,405/- has been directed to be made from the petitioner on the allegation that the date of birth of Nand Lal Chowkidar had been wrongly noted in the service book by the petitioner. The petitioner pleaded that no show cause was issued to him for alleged recovery which is violation of Principle of Natural Justice and there has been violation of procedural provisions and thereafter the respondent authorities also started departmental proceeding wherein unilateral order of following punishment has been awarded against the petitioner:-

(A) Stopping of three annual increment with cumulative effect;

(B) Warning to be recorded in Service Book;



(C) No Promotion for two years and

(D) Will not be made In-charge of the Establishment files.

3. Against the said order of the Joint Secretary, petitioner filed an appeal which was rejected by the authorities of the Board vide order dated 20.12.2002. The petitioner has filed his representation in light of order passed in CWJC No.3541 of 2004, by which the petitioner was directed to approach the respondent for disposal of his representation. However, it is claimed by the petitioner that his representation was disposed of by the respondent authorities in a mechanical manner without applying his mind.

4. No counter affidavit has been filed in the present case despite of the fact that the matter has been kept pending since the year 2013.

5. The Managing Director of the concerned Power Holding Company in whose jurisdiction, the services of the petitioner falls, is directed to call for the service particular of the petitioner and verify, as to whether, the representation of the petitioner was rejected without giving the petitioner any opportunity of hearing.

6. In case, it is found that the rejection order dated



29.08.2012 along with Memo No.2334 dated 03.09.2012 and Memo No.13/CC/2525/3183/05 dated 27.09.2012 have been passed without giving due opportunity of hearing to the petitioner and the order being penal in nature, the same is required to be interfered with by taking appropriate decision in accordance with law.

7. The writ petition is accordingly disposed of.

8. Interlocutory Application(s), if any, also stands disposed of.

(Purnendu Singh, J)

Sanjay/-

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