

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19335 of 2012

Daya Nath Singh retired Chief Engineer Son Of Late Ramayan Singh
Resident Of Daya Niwas, Mohanpur, Punaichak, Patna - 23

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board (now holding company) through its Chairman Vidyut Bhawan, Bailey Road, Patna
2. The Secretary Bihar State Electricity Board (Now Holding Company) Vidyut Bhawan, Bailey Road, Patna
3. Shri A.K. Sinha Joint Secretary, Bihar State Electricity Board, Bailey Road, Vidyut Bhawan, Patna .

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Advocate
	:	Ms. Akrity Aishwarya, Advocate
	:	Mr. Manish Kumar Singh, Advocate
	:	Mr. Kunden Kumar, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate
	:	Mr. Akhileshwar Singh, Advocate
	:	Mr. Venkatesh Kirti, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 01-02-2024

Heard Mr. Rajesh Kumar Singh, learned senior counsel appearing for the petitioner and Mr. Vinay Kirti Singh, learned senior counsel appearing for the respondent-Board.

2. The present writ application has been filed for quashing the resolution No.1240 dated 03.06.2011 and letter No.1518 dated 13.07.2012 by which the punishments have been inflicted against the petitioner, which are as follows:

(I) Reduction of 10% pension.

(II) He will not be paid anything more than subsistence allowance already paid.



(III) He has been censured with an entry in the ACR for the year 1995-96.

3. Learned counsel for the petitioner submits that a departmental proceeding was initiated against the petitioner by the Board under Resolution No.2291 dated 23.09.1995. The petitioner submitted his written statement on 10.11.1995 against the chargesheet requesting the Inquiry Officer to consider the contention of the petitioner in the departmental proceeding and during proceeding the petitioner has also submitted a supplementary written statement on 08.12.1995 for the consideration of the Inquiry Officer and in the present case show cause notice was given to the petitioner disclosing the grounds or reason before the final impugned resolution awarded the punishment was passed which is violation of principles of natural justice and petitioner has been prejudiced to the action of the respondents. The petitioner was retired from service with effect from service on 31.01.1996 and he has filed CWJC No.3837 of 1997 challenging the awarded punishment vide Board's Resolution No.1632 dated 22.06.1996. This Court has been pleased to set aside the impugned resolution dated 22.06.1996 and directed the petitioner to file his second show cause reply as he has already received the enquiry report through counter affidavit, as early as



possible in any case within one month from the date of receipt/production of a copy of this order and the Court also directed the Board to pass appropriate orders in accordance with law. In compliance of order of this Court passed in CWJC No.3837 of 1997, the petitioner submitted reply of second show cause vide his petition dated 27.01.2011 challenging the Inquiry Officer's report and the Inquiry Officer failed to consider the fact that during his tenure as General Manager-cum-Chief Engineer of the area Electricity Board the revenue of the Board has increased and during petitioner's period less quantum of electricity units have been received from the greed in his region, this proves the ability of petitioner's supervisor capacity and due to his sincere and diligence effort, the Board was able to collect more revenue as compared to previous General Manager-cum-Chief Engineer tenure.

4. Learned counsel for the petitioner submits that Inquiry Officer did not consider the point raised in the reply to the second show cause and from a bare perusal of the impugned order it appears that the respondent authority only cut and paste the previous order which was under challenge in CWJC No.3837 of 1997. Further submits that the charges were framed against the petitioner are not substantiated and based on surmises and



conjectures and they have not considered any issue raised by the petitioner and the record of the revenue suggests that the revenue has been increased during the tenure of the petitioner and there was no circular or order of the Board which suggests to checking the transformers. In view of the aforesaid, the orders impugned are bad in law. Learned counsel for the petitioner relied upon the Rules for the Constitution and functioning of the area Board of the Bihar Electricity Board, he is bringing on record the notification dated 20.08.1975.

5. Learned counsel for the respondent-Board, on the other hand, submits that from a bare perusal of the earlier Resolution No.1632 dated 22.06.2022 it is quite apparent that the disciplinary authority after considering the finding of the Inquiry Officer alongwith other concerned papers were examined and after due consideration of enquiry report and written statement of the petitioner, the deposition of the witnesses and other relevant papers on record and it was found that the petitioner was guilty of the lacking of proper supervision and also negligence in discharging his duties and responsibilities as General Manager-cum-Chief Engineer of the area Board. Due to previous acts of omission and commission on the part of the petitioner, the two consumers in the area namely, M/s Ganesh Foundary and M/s



Deepak Electro Casting succeeded in stealing power worth crores of Rupees and for that the disciplinary authority of Board gave punishment of deciding to withholding 10% his pension was ordered to be forfeited apart from other punishments.

6. Learned senior counsel for the Board further submits that the rules of the Constitution and functioning of the area of Bihar Electricity Board which was published in the Bihar Gazette Extra Ordinary No.1211 dated 20.10.1975 and amended up to November 1976, which reads as follows:-

“Under Rule 3 of the aforesaid Rules deals with constitution of Area Boards, their territorial head jurisdiction and need quarters.

(a) There shall be constituted by Notification five Area Board for the following area.

(i) Tirhut Area Electricity Board for the entire administrative area of Tirhut Division.

(ii) Mithila Area Electricity Board for the entire administrative area of Darbhanga and Kosi Divisions and those parts of Bhagalpur and Monghyr Districts, which lies to North of the Ganges Similarly central Bihar Area Electricity Board.



(iii) *South Bihar and Chhota Nagpur Area Electricity Board.*

(iv) *Bhagalpur Electricity Area Board.*

Rule-8 deals with Finance & Accounts:-

(A) An Area Board shall be responsible for Financial and Commercial viability of the Supply and Distribution System in its area for which proposes:-

(i) It shall maintain Separate account;

(ii) It shall collect its revenue effectively and shall not allow arrears to accumulate;

(iii) It shall fully account for the energy supplied to it by the Boards Generation cum Transmission organization and/or any other neighbouring Power Systems and other provisions”.

7. In view of the aforesaid, it is admitted position that without considering the point raised by the petitioner in the reply to the second show cause, the impugned order dated 30.06.2011 as well as appellate order dated 13.07.2012 have been passed and the respondents are failed to establish that the petitioner was guilty of lacking in proper supervision and also negligence in discharging



his duties and responsibilities as General Manager-cum-Chief Engineer of the area Board. The order dated 30.06.2011 as well as order dated 13.07.2012 are set aside. The respondents are directed to pay the all consequential benefits to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

8. Accordingly, the present writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.02.2024
Transmission Date	NA

