

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6950 of 2012

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MADAN MOHAN LAL DAS Son Of Late Gangadhar Lal Das Resident Of
Bahadurpur Housing Colony, P.S. Agamkuan, District-Patna... .. Petitioner/s
Versus

1. The Bihar State Electricity Board through its Chairman, Vidyut Bhawan,
Bailey Road, Patna.
2. The Chairman, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road,
Patna
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road,
Patna
4. The Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey
Road, Patna Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raja Ram Mishra, Advocate
For the Respondent/s : Mrs.Archana Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 13-02-2024

Heard learned counsel appearing for the petitioner and
learned counsel appearing for the Board.

2. This writ application has been filed for quashing the order vide Board's Resolution No.2593 dated 23.12.2011 and Memo No.1677 dated 27.02.2012 by which the punishment order of permanently withholding 20% of pension and the petitioner's provisional pension has been reduced from Rs. 21,105/-to Rs. 18,760/-. Further prayed to hold the second show cause notice contained in Board Resolution No.1052 dated 29.12.2005 as an afterthought and illegal exercise by the respondents to victimize the petitioner by reviving a departmental proceeding, which had already culminated in final order of punishment which was



quashed by this Hon'ble Court vide order dated 21.11.2003 passed in CWJC No.9236 of 2003.

3. The petitioner was retired from the post of Electrical Superintending Engineer on 31.01.2001. After his retirement, a departmental proceeding was initiated under Rule 43(b) of the Bihar Pension Rules on 31.03.2001 and a chargesheet was also served upon the petitioner. In the chargesheet, there were seven charges framed against the petitioner. Petitioner has replied to the charge and the departmental proceeding was initiated against the petitioner and the Inquiry Officer, after the fulfilled enquiry, has exonerated the petitioner from all the charges but the disciplinary authority differed with the findings of the Inquiry Officer and he has issued a second show cause notice to the petitioner vide letter dated 10.10.2002. The petitioner has replied to the second show cause notice on 24.10.2002 but vide resolution No.2969 dated 12.12.2002 a mechanical punishment order was passed for permanently withholding 20% of pension of the petitioner. The above punishment order and the show cause notice dated 10.10.2002 both were quashed by this Hon'ble Court vide order dated vide order dated 21.11.2003 passed in CWJC No. 9236 of 2003. However, liberty was given to the Board to proceed in accordance with law. The impugned resolution No.1052 dated



29.12.2005 (Annexure-2) the petitioner was directed to submit his show cause reply again against the findings of the disciplinary authority differing with the findings of the enquiry report in the same proceeding, which stood finally terminated after the order dated 21.11.2003 passed in CWJC No.9236 of 2003 on quashing the second show cause notice dated 10.10.2002 as well as the final punishment order of permanently withholding 20% of the pension of the petitioner. Learned counsel for the petitioner submits that the reason to hold the charges proved in the impugned show cause notice contained in Resolution No.1052 dated 29.12.2005 were nothing but a mechanical and verbatim Hindi translation of earlier reasons stated in the second show cause notice which was issued under Resolution No.2423 dated 10.10.2002 (Annexure-7) which was quashed by this Hon'ble Court vide order dated 21.11.2003 passed in CWJC No.9236 of 2003 on the ground that before holding the charges proved, the petitioner was not given an opportunity to satisfy the disciplinary authority.

4. Learned counsel for the petitioner submits that it appears from the charge memo that it has been mentioned in the charge memo for the period which is mentioned in the charge memo i.e. 26.08.1999 and 27.08.1999 on which date the Board has conducted the raid in the premises of M/s Kamper Concast Ltd.



and M/s J.M.D. Alloy Ltd. but it is admitted fact that the petitioner was served in that area till 09.05.1999 and the Disciplinary Authority has also relied upon Gazette Notification No.15 of 2000 which is not applicable in the case of the petitioner because the raid was conducted in 1999 and Gazette Notification has come with effect from 06.04.2000. Learned counsel for the petitioner submits that it would appear from the charge memo that it has been mentioned in the charge memo that the raid was conducted on 26.08.1999 and 27.08.1999 in the premises of M/s Kamper Concast Ltd. and M/s J.M.D. Alloy Ltd. but it is admitted fact that the petitioner was served in the area till 09.05.1999 and it is admitted that the raid was conducted by the Board after the petitioner was relieved from that area and apart from the aforesaid the disciplinary authority has also relied upon the Gazette Notification No. 15 of 2000 which is not applicable in the present case because the raid was conducted in the year 1999 and the Gazette Notification was published in the year 2000 with effect from 06.04.2000.

5. Learned counsel for the Board, on the other hand, vehemently opposed the contention of the petitioner and submits that the disciplinary authority has rightly disagreed with the report of the Inquiry Officer and he has rightly relied upon the Gazette



Notification No.15 of 2000, the petitioner is liable for the loss of the Board.

6. In the aforesaid facts and circumstances it appears that the disciplinary authority has relied upon Gazette Notification No.15 of 2000, disciplinary authority has differed with the finding of the Inquiry Officer on the basis of the Gazette Notification No.15 of 2000 but it is admitted fact that the raid was conducted in the year 1999 after the petitioner was relieved from the post in question and he has been transferred to another place and petitioner was served till 09.05.1999 and petitioner was not Incharge on the date when the raid was conducted by the Board and the Gazette Notification No.15 of 2000 is not applicable at all in the present case which was issued after the year 1999.

7. In view of the aforesaid, order dated 23.12.2011 and order dated 27.02.2012 are set aside and the Board is directed to release 20% of pension forthwith alongwith arrears of the pension within a period of four weeks from the date of receipt/production of a copy of this order.

8. Accordingly, this writ application stands disposed of.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2024
Transmission Date	NA

