

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1543 of 2019

In
Civil Writ Jurisdiction Case No.2621 of 2004

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The Managing Director, Bihar State Ware Housing Corporation

... .. Appellant/s

Versus

1. Chandeshwar Bharti Son of Late Meethu Mochi, Resident of Village-Tope, PS-Daniyawar, District-Patna.
2. The Bihar State Ware Housing Corporation, Maurya Lok Complex, Patna, through its Chairman.
3. Shri Brajendra Pandey, Managing Director , Bihar State Warehousing Corporation Ware Housing Corporation through its Chairman.
4. The Executive Committee through its Chairman, Bihar State Ware Housing Corporation, Maurya Lok Complex, Patna.
5. The Inquiry Officer-Cum-Incharge Divisional Manager, Bihar State Ware Housing Corporation, Maurya Lok Complex, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mithilesh Kumar Rai, Advocate
For the Respondent/s : Mr. Anil Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 10-12-2024

The appellant – Bihar State Ware Housing Corporation has assailed the order of the learned Single Judge dated 05.07.2019 passed in CWJC No. 2621 of 2004. Respondent No. 1 – *Chandeshwar Bharti* was subjected to disciplinary proceedings and it was concluded in imposition of penalty of termination / dismissal from service on 05.04.2003 and it was affirmed by the



appellate authority on 02.12.2003. Feeling aggrieved by the decision of the disciplinary authority and appellate authority, respondent No. 1 – *Chandeshwar Bharti* preferred CWJC No. 2621 of 2004. The learned Single Judge proceeded to allow the writ petition on 05.07.2019. Feeling aggrieved by the order of the learned Single Judge, the present LPA has been presented on behalf of the Bihar State Ware Housing Corporation.

2. Learned counsel for the appellant – Corporation submitted that learned Single Judge has committed error in not appreciating that who are the disciplinary authority and appellate authority in paragraph Nos. 8 and 9 of the order of the learned Single Judge. It is only a technical error and it has been rectified as : Insofar as respondent No. 1, read with his status in the Corporation, disciplinary authority is the Executive Committee who has passed the order of termination / dismissal and it was formally communicated to the respondent No. 1 by the Managing Director. Thereafter, respondent No. 1 has preferred appeal before the appellate authority, *namely*, Board of Director and the order of termination / dismissal was affirmed by the appellate authority and such decision of the appellate authority of the Board of Director was communicated to the respondent by the Managing Director.



To this effect, order of the learned Single Judge stands modified in Paragraph No. 9.

3. Learned counsel for the appellant - Corporation submitted that disciplinary proceedings have been proceeded in accordance with the relevant regulation, therefore, there is no infirmity. It is submitted that Presenting Officer was appointed, however, he had not participated in the process of disciplinary proceedings to present the case on behalf of the Corporation before Inquiring Authority. Therefore, one has to draw inference that even though Presenting Officer was appointed, he failed to appear before the Inquiring Authority to present the corporation's decision insofar as initiation of inquiry read with relevant document and evidence. On the other hand, Inquiring Authority played a dual role of Inquiring authority as well as Presenting Officer and it is deprecated.

4. Once the Regulation/Rules stipulates a particular thing is to be done by a particular officer, in such an event, authority/officer cannot sidetrack such Regulation/Rules and adopt his own method. In other words, he is bounden duty to adhere to the relevant Regulation/Rules. In the present case, even though Presenting Officer has been appointed in accordance with the relevant Regulation/Rules, however, he failed to appear before



the Inquiring Authority and in the present case on behalf of the Corporation and it is a legal lacunae. The Hon'ble Supreme Court in the case of *Union of India vs. P. Gunasekaran* reported in **2015 (2) SCC 610**, it was held that scope of judicial review in departmental inquiry/domestic inquiry is limited to the extent that only if there is a violation of principle of natural justice or violation of any Regulation, in such circumstances, Court can interfere and proceed to adhere to the judicial review. In the present case, it is crystal clear that Presenting Officer has been appointed, however, he has not presented the case on behalf of the Corporation before the Inquiring Authority and it is a legal lacunae. Accordingly, the appellant has not made out a case so as to interfere with the order of learned Single Judge dated 05.07.2019 passed in CWJC No. 2621 of 2004. Hence, present appeal stands dismissed.

5. Pending I.A.(s), if any, stands disposed of.

6. Learned counsel for the respondent – *Chandeshwar Bharti* submitted that certain monetary benefits which were required to be determined by the Corporation and the same has not been determined and disbursed. In this regard, respondent – *Chandeshwar Bharti* is permitted to make a detailed representation to the concerned authority. If such representation is



submitted, the appellant/Corporation is hereby directed to redress the grievance of the respondent within a reasonable period of three months from the date of receipt of representation.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
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