

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2504 of 2019**

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Jindalal Mahto, son of Late Deni Mahto, resident of Village- Madhopur, P.O. and P.S. Motipur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board now Bihar State Power, holding company limited Vidyut Bhawan Bailey Road, Patna, through its Chairman
2. The Chairman Cum Managing Director, Bihar State Electricity Board, now Bihar State Power, holding company limited, Vidyut Bhawan, Bailey Road, Patna.
3. The General Manager, Human Resources (Administration) South Bihar Power Distribution Company Limited, Bihar State Electricity Board, now Bihar State Power, holding company limited, Vidyut Bhawan, Bailey Road, Patna.
4. The Additional Secretary, Bihar State Electricity Board, now Bihar State Power, holding company limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

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**Appearance :**

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|----------------------|---|----------------------------------------|
| For the Petitioner/s | : | Mr. Sanjeev Kumar Mishra, Sr. Advocate |
| For the Respondent/s | : | Ms. Renu Jha, Advocate                 |

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**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL JUDGMENT**

**Date : 24-03-2025**

Heard the parties.

2. The petitioner is aggrieved with the order as contained in Resolution no.925 dated 13.09.2017 issued under the signature of respondent no.4, whereby the petitioner has been inflicted with the punishment of withholding of two annual increments with non-cumulative effect and further the petitioner



would get nothing except the subsistence allowance for the period of suspension from 26.04.2013 to 15.08.2013.

3. Mr. Sanjeev Kumar Mishra, learned Senior Advocate for the petitioner, adverting to the facts enumerated in the writ petition has contended that the petitioner was duly appointed on the post of Junior Electrical Engineer in the year 1984 and on being found eligible, he was promoted to the post of Assistant Electrical Engineer in the year 1997.

4. While the petitioner was posted as Assistant Engineer, Electrical Supply Division, Dhaka, in the meanwhile, on account of certain imputation of disobedience and misconduct, he was put under suspension vide Resolution no. 69 dated 26.04.2013 in contemplation of a departmental proceedings, which was initiated vide Memo No.90 dated 12.06.2013. Altogether eight charges were framed against the petitioner. In response to the charges, the petitioner filed a detailed statement of defence with a prayer to exonerate him. The Enquiry Officer after completing the enquiry has submitted his enquiry report as contained in letter no. 131 dated 23.06.2016. The charges from 1 to 6 and 8 stood proved against the petitioner. So far charge no.7 is concerned, the same has been partially proved. On receipt of the enquiry report, second



show-cause notice was served upon the petitioner, which was also responded in details with a request to exonerate him from the charges. However, the response of the petitioner did not find favour and finally the impugned order as contained in Resolution no.925 dated 13.09.2017 came to be passed, which is put to challenge before this Court.

5. While assailing the impugned order, Mr. Mishra, learned Senior Advocate for the petitioner has taken this Court through the order(s) and submitted that apart from the order is wholly cryptic and no reason has been assigned, as to why the second show-cause affidavit filed by the petitioner did not find favour; the punishment is only based upon the enquiry report. The disciplinary authority, despite being under obligation to deal with second show-cause has only stated that the second show-cause offered by the petitioner was reviewed but it did not find favour and accorded the punishment of withholding of two increments with non-cumulative effect and further except subsistence allowance, nothing shall be payable for the period during suspension. Learned Senior Advocate, thus urged that any administrative or quasi judicial order must be supported by reason. Placing reliance upon a decision of the Apex Court in the case of **M/s Kranti Associates Pvt. Ltd. and Another v.**



**Sh. Masood Ahmed Khan and Others [(2010) 9 SCC 496]**, it is contended that a quasi judicial authority must record reasons in support of its conclusions as the recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial or even administrative power. The reasons in support of decisions must be cogent, clear and succinct; a pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process. Moreover, if an order lacks reason, it cannot be tested by the appellate authority.

6. It is further argued that apart from the aforesaid ground(s), the order impugned is also bad in the eyes of law, inasmuch as while imposing the punishment that the petitioner shall not get anything for the period of suspension save and except subsistence allowance, the disciplinary authority was required to give separate show-cause notice to the delinquent in terms of Rule 97(3) of the Code but the same has been given a complete go by in the matter in hand. To support the aforesaid contention, reliance has been placed on a decision rendered by the learned Division Bench of this Court in the case of **Dinesh Prasad v. State of Bihar [2006 (4) PLJR 514]**.

7. *Per contra*, Ms. Renu Jha, learned Advocate



representing the North Bihar Power Distribution Company Limited (NBPDC) has confronted the afore-noted submissions and contended that the petitioner has been accorded ample opportunity in the departmental proceedings and, in fact, at no point of time, any grievance has been raised regarding fair process adopted by the respondent-NBPDC; moreover, the punishment imposed is a minor punishment and if the petitioner has had really any grievance, he may prefer appeal before the competent authority. The second show-cause filed by the petitioner was duly considered by the disciplinary authority and on being found charges proved in the enquiry, the order impugned has been passed. It is also contended that once the charges have been proved during the course of enquiry, no elaborate order is required to be passed by the disciplinary authority.

8. Having considered the submissions advanced by the learned counsel for the respective parties, this Court finds substance in the writ petition for the reasons assigned hereinbelow.

9. Trite it is that the legality and correctness of a decision is to be tested on the basis of the reason disclosed in the order and not otherwise. *Prima facie*, from the impugned



order, it appears that the disciplinary authority failed to discharge his duty when it is not disclosed as to why the second show-cause explanation filed by the petitioner did not find favour. There is no deliberation and discussion with respect to the grounds taken in the show-cause, save and except it has been disclosed that after thorough examination; the second show-cause filed by the petitioner did not find favour. It would be worth to remind that the Hon'ble Apex Court in the case of **Mohinder Singh Gill and Another v. The Chief Election Commissioner, New Delhi and Others [AIR 1978 SC 85]** ruled that “when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise”.

10. This Court also finds that before inflicting the punishment that the petitioner shall not get anything for the period of suspension save and except subsistence allowance, it was incumbent upon the disciplinary authority to give a fresh show-cause on this point in terms of Rule 97(3) of the Code. This Court has been reminded with the mandate of different Benches' of this Court, wherein the Court has held that non-observance of the provision of Rule 97(3) of the Code would amount to



violation of the principles of natural justice [**vide Mahabir Prasad v. The State of Bihar and Others, 1988 0 PLJR 82, Pramod Kumar v. The Champaran Kshetriya Gramin Bank and Others, 2003(4) PLJR 68 and Dinesh Prasad (supra)**].

11. On both the counts, this Court finds the impugned order as contained in Resolution no.925 dated 13.09.2017 suffers from manifest illegality and, as such, it stands quashed and cancelled. Normally, in the case in hand this Court may relegate the matter to the disciplinary authority to pass a fresh reasoned and speaking order but this Court has been informed that during the interregnum period, the petitioner has already superannuated, hence, no purpose would be served in relegating the matter.

12. The writ petition stands allowed; the consequences shall follow.

**(Harish Kumar, J)**

rohit/-

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