

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.61 of 2022

In

Civil Writ Jurisdiction Case No.3824 of 2021

-
-
1. The State of Bihar.
 2. The Principal Secretary, Department of Water Resources, Bihar, Patna.
 3. The Deputy Secretary (Management Cell), Department of Water Resources, Bihar, Patna.

... .. Appellants.

Versus

1. Sudhir Kumar Sinha, Son of Late Chhatradhari Prasad Singh, Resident of A/8, Ashokpuri Colony, Kajpura Baily Road, P.S. Shastri Nagar, District-Patna.
2. The Accountant General (A and E), Bihar, Patna.

... .. Respondents.

Appearance :

For the Appellants	:	Mr. Vivek Prasad, GP-7. Mr. Binod Kumar Sinha, AC to GP-17.
For the Respondent no.1	:	Mr. Prabhu Nath Pathak, Advocate.
For AG	:	Mr. Bindhyachal Rai, Advocate.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

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

Date : 12-02-2025

Appellants-State have assailed the order of the learned Single Judge dated 01.11.2021 passed in C.W.J.C. No.3824 of 2021.

2. Respondent no.1-Sudhir Kumar Sinha, while he was working as an Executive Engineer, he was entrusted with certain assignment insofar as deduction of TDS of certain employees, who were working under him. Thereafter, it was required to be



remitted in the Department, the same was not undertaken by him, resultantly, Income Tax Department imposed a fine of Rs.11,13,571/- in the year 2018. In this backdrop, appellants have proceeded to impose the penalty of withholding of 10% pension and 10% gratuity. The aforementioned action in respect of withholding of 10% pension and 10% gratuity is in the absence of holding a departmental inquiry.

3. No doubt, Respondent no.1-Sudhir Kumar Sinha had attained the age of superannuation and retired from service on 31.03.2018, with reference to allegation that he failed to remit deducted arrears amount and resulted in imposition of fine of Rs.11,13,571/- by the Income Tax Department, the Disciplinary Authority should have initiated a disciplinary proceedings even after retirement. On the other hand, there was an inaction in not initiating disciplinary proceedings and straight away Disciplinary Authority proceeded to impose aforementioned penalty. The penalties were the subject matter of C.W.J.C. No.3824 of 2021. Learned Single Judge has allowed C.W.J.C. No.3824 of 2021 on 01.11.2021. Hence, the present L.P.A.

4. It is shocking in filing this type of L.P.A. on behalf of the State. In all fairness, after disposal of C.W.J.C. No.3824 of 2021, they should have filed a review before the learned



Single Judge in seeking permission to initiate and complete the inquiry proceedings, in accordance with law. On the other hand, they slept over the matter and preferred to file the present L.P.A. No.61 of 2022 in the year 2022. In the present L.P.A. No.61 of 2022, they should have sought for an interim order and there is no interim order. Due to inaction on the part of the Disciplinary Authority, the respondent no.1-Sudhir Kumar Sinha cannot be subjected to disciplinary proceedings in view of the specific provision under Bihar Pension Rules to the extent that if the alleged allegation relates back to four years old, in such circumstances, departmental inquiry is not warranted.

5. In view of these facts and circumstances, there are serious lapses on the part of the Disciplinary Authority and other officers who are all involved insofar as imposition of penalty read with the filing of the present L.P.A., resulted in financial loss to the State exchequer to the tune of Rs.11,13,571/-.

6. Accordingly, the appellants-State have not made out a case. The present L.P.A. stands dismissed.

7. The Chief Secretary, State of Bihar, Patna, is hereby directed to take note of the present case and initiate appropriate disciplinary proceedings against such of those erring officers, who have not taken timely action against the respondent no.1-



Sudhir Kumar Sinha, if such officers are in service read with the Bihar Pension Rules. The same shall be reported to this Court after six months.

8. Re-list this matter after six months.

9. Copy of this order shall be forwarded to the Chief Secretary for taking appropriate action in the matter.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.02.2025.
Transmission Date	NA

