

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7980 of 2015

Abhinita, D/o Nakul Prasad Choudhary, resident of Mohalla- Sant Vihar,
Ward No. 13, Aliganj, Behind Thakurbari, P.S. District-Banka.

... .. Petitioner

Versus

1. The Bihar State Power Holding Company Ltd. (erstwhile Bihar State Electricity Board), Vidyut Bhawan, Bailey Road, Patna, through its Chairman.
2. The Director Administration, Bihar State Power Holding Company Ltd., Patna.
3. The Chairman-cum-Managing Director, Bihar State Power Holding Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
4. The Deputy General Manager, North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The Officer on Special Duty (Administration) North Bihar Power Distribution Company Ltd., Patna.
6. The General Manager-cum-Chief Engineer, PESU Area, Patna.
7. The Executive Engineer, Electric, PESU Area, Patna.
8. The Assistant Electrical Engineer, PESU Area, Patna.
9. South Bihar Power Distribution Company Limited through its Managing Director having its registered office at Vidyut Bhawan, Jawahar Lal Nehru Path, Bailey Road, Patna-800001.
10. North Bihar Power Distribution Company Limited through its Managing Director having its registered office at Vidyut Bhawan, Jawahar Lal Nehru Path, Bailey Road, Patna-800001.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Singh, Sr. Advocate Mr. Vaibhava Veer Shanker, Advocate
For the Respondent/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Rajan Kumar Srivastav, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 27-06-2025

In the instant petition, petitioner has prayed for the
following reliefs:

“(i) A certiorari setting aside the



order passed by the respondent Appellate Authority Chairman-cum-Managing Director contained in and communicated vide letter no. 88 dated 04.02.2015 issued from the level of respondent Deputy General manager (Human Resources/Administration) (D.G.M.G.H.R./Adm. only hereinafter), whereby and whereunder the departmental Appellate Authority has illegally and mechanically rejected the appeal of the petitioner in a very casual and arbitrary manner without proper analysis of facts and circumstances, averments and arguments as well as material brought on record on behalf of this petitioner appellant, affirming the illegal and disproportionate and torturous order of dismissal against this petitioner.

(ii) A further certiorari also setting aside the order of dismissal passed against this petitioner vide resolution no. 38 dated 26.06.2013 from the level of Special Executive Officer (Administration) contained in memo no. 39 whereby and whereunder the petitioner has been inflicted with a very harsh and disproportionate punishment of "Dismissal" with immediate effect without properly conducted departmental proceeding and without compliance of principal of natural justice.

(iii) A mandamus commanding and directing the respondents concerned to allow the petitioner to join her post again and discharge her



duties regularly and sincerely with payment of all her consequential monetary benefits.

(iv) And/ Or any other relief or reliefs for which the petitioner is found entitled to in the facts and circumstances of this case.”

2. Matter was heard from time to time. On 29.11.2024, the following order was passed:

“Respondents could not apprise this Court on two counts namely whether disciplinary authority of the petitioner has passed the dismissal order or not for the reasons that perusal of the document it is evident that some O.S.D. (Admn.) is stated to have passed an order of dismissal. On the other hand, learned counsel for the petitioner submitted that appointing authority and disciplinary authority to the petitioner is Managing Director. There is a dispute in respect of appointing and disciplinary authority to the petitioner. Bihar State Power Holding Company Limited has authorized or identified O.S.D. (Administration) as disciplinary authority to the petitioner or not? In this regard, material information shall be furnished on the next date of hearing failing which respondents are liable to pay a fine of Rs. 25,000/- in the Patna High Court Legal Services Committee.

2. One more issue was raised in respect of non- furnishing of inquiry officer's report. Learned counsel for the petitioner submitted that inquiring officer's report was



submitted during pendency of the appeal. Thereafter, the appellate authority should have set aside the dismissal order and directed the disciplinary authority to proceed afresh from the defective stage to the extent of issuing second show cause notice along with inquiring officer's report read with petitioner's explanation to the second show cause notice read with inquiring officer's report and followed by final order in the disciplinary proceedings. Such proceeding is not forthcoming from the file. Even on this point, the concerned Managing Director, Bihar State Power Holding Company Limited shall explain with reference to the records on the next date of hearing.

3. Re-list this matter on 03.01.2025.”

3. Thereafter, on 17.01.2025, following order was passed:

“In the light of earlier order dated 29.11.2024 respondents have filed an affidavit and clearly admitted that OSD (Admn.) is not the disciplinary authority to the petitioner. Therefore, whatever the action taken by the OSD (Admn.) against the petitioner in a departmental inquiry stands vitiated. Perusal of the records, it is evident that the petitioner has not assailed initial action of the OSD (Admn.) insofar as the initiation of departmental inquiry while framing of charge. In



the absence of challenge to such action, it is not appropriate to decide the present matter. If an order is passed by an incompetent authority it will go to the root of the matter, therefore, a formal challenge to action or order is warranted. Therefore, petitioner is permitted to file interlocutory application to amend CWJC No. 7980 of 2015 within a period of three weeks from today. If such application is filed, Registry is hereby directed to put up such interlocutory application for amendment of CWJC No. 7980 of 2015.

2. Re-list this matter on 14.02.2025.”

4. In the light of order dated 17.01.2025, the petitioner has filed Interlocutory Application No. 02 of 2025 while praying as under:

I. After paragraph 1(ii) it may be added as 1(ii)(A): Issue a Rule NISI in the nature of a writ of certiorari to quash and cancel the Notification No. 26/EB – Patna dated 27.11.12 (Annexure-19) by which the petitioner was transferred to North Bihar Power Distribution Company Limited (NBPDC) (respondent no.10) from Patna Electric Supply Division undertaking (PESU) one of the undertaking of the South Bihar Power distribution Company Limited (SBPDCL) (respondent no.9) that to by the Officer on Special Duty (OSD) (respondent no.5) in complete



disregard and violation of Clause 6.7, 6.10, 6.11 and 6.12 of Terms of Transfer notification dated 30.10.2012 (Annexure-17) issued by the State Government.;

II. After paragraph 1(ii)(A) it may be added as 1(ii)(B):- To quash and cancel the decision/resolution dated 17.01.2013 (Annexure-6) to initiate a Departmental proceeding passed by OSD (respondent no.5), a Government of Bihar Officer on deputation in Bihar State Power Holding Co. Ltd. not being the appointing authority nor an officer authorised to initiate departmental proceeding against the petitioner;

III. After paragraph 1(ii) it may be added as 1(ii)(C):- To quash and cancel the charges framed as contained in (Annexure-6) as also the charge added dated 06.03.2013 (part of Annexure-6, page 72); as also to quash and cancel the 2nd show cause notice dated 14.06.2013 (Annexure-10) issued by the OSD (respondent no.5) not an officer authorised nor an appointing authority or disciplinary authority and as such is illegal;”

5. Learned Senior Counsel for the Respondent Mr. Y.V. Giri opposed challenged to the initial proceedings belatedly. Be that as it may, having regard to the admitted fact that penalty order has been passed by an incompetent authority.



It would go to the root of the matter consequently Appellate Authority's order and further action of the Respondents would vitiate in view of the Hon'ble Supreme Court decision in the case of **Chairman-cum-Managing Coal India Ltd. vs. Ananta Saha and Ors.** reported in **(2011) 5 SCC 142.**

6. Accordingly, the order dated 26.06.2013 and 04.02.2015 stands set aside. The concerned Respondent/Competent Authority are hereby directed to reinstate the petitioner with all consequential benefits, including monetary and service benefits within a period of six months from the date of receipt of this order. However, petitioner shall be reinstated within a period of one month from the receipt of this order.

7. Writ petition allowed.

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.07.2025
Transmission Date	NA

