

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.688 of 2024
In
Civil Writ Jurisdiction Case No.9387 of 2012

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1. Bihar State Financial Corporation through its Managing Director, Fraser Road, Patna.
 2. Board of Directors of Bihar State Financial Corporation, through its Chairman, Fraser Road, Patna
 3. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna.
 4. The Assistant General Manager-Cum-Conducting Officer, Bihar State Financial Corporation, Fraser Road, Patna

... .. Appellant/s

Versus

1. Punam Keshri Wife of Late Anil Kumar Keshri Permanent Resident of- B- 603, Saket Plaza, Jamal Road, P.O.- G.P.O., P.S.- Gandhi Maidan, District- Patna.
2. Aatish Son of Late Anil Kumar Keshri Permanent Resident of- B- 603, Saket Plaza, Jamal Road, P.O.- G.P.O., P.S.- Gandhi Maidan, District- Patna.
3. Mahima Daughter of Late Anil Kumar Keshri Permanent Resident of- B- 603, Saket Plaza, Jamal Road, P.O.- G.P.O., P.S.- Gandhi Maidan, District- Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Raju Giri, Sr. Advocate Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Manik Vedsen, Advocate Mr. Pawan Kumar, Advocate Mr. Nagadeo Choubey, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 29-04-2025

I.A. no.1 of 2024

The instant application has been filed for condoning the delay of 21 days in filing of the instant appeal.

2. Having heard learned counsel for the parties and having perused the contents of the petition, the Court is satisfied



that the appellants have made out a case for condonation of delay.

3. The delay is condoned and the application is allowed.

4. I.A. no.1 of 2024 stands disposed of.

L.P.A. no.688 of 2024

5. Heard Mr. Raju Giri, learned Senior counsel assisted by Mr. Harsh Vardhan, learned counsel for the appellant-Bihar State Financial Corporation (hereinafter referred to as 'the Corporation') and Mr. Manik Vedsen, learned counsel for the respondents.

6. The appellant-Corporation has preferred the instant appeal against the judgment dated 23.4.2024 passed in CWJC no.9387 of 2012 whereby the learned Single Judge was pleased to set aside the impugned order dated 27.11.2009 as also the appellate order dated 15.2.2011 and directed the Corporation to pay all the consequential benefits including the arrears of salary and post retiral benefits to the wife of the original writ petitioner (since deceased).

7. The facts in brief are that the original writ petitioner, who happens to be the husband of the respondent no.1, while posted as Dy. Manager, was proceeded against in a



departmental proceeding in the year 1996 with respect to misconduct committed by him in the year 1988-89 when he was posted in the Patliputra Branch of the Corporation. In the departmental enquiry conducted, the original writ petitioner was found guilty in the enquiry report and the disciplinary authority imposed the punishment of compulsory retirement on him.

8. The order of punishment was challenged by the original writ petitioner by filing CWJC no.6635 of 2005 mainly on the grounds of violation of the principles of natural justice and the evidence having been taken by the enquiry officer in the said proceeding behind his back. Taking note of a decision/order of this Court dated 21.7.2006 in CWJC no.1905 of 2005 (Mr. Upendra Kumar vs. BSFC), wherein the facts were similar, this Court came to the conclusion that serious prejudice had been caused to the petitioner. Consequently, both the orders impugned therein ie the orders of punishment as also the order of the Board of Directors affirming the order of punishment were quashed and the matter was remanded back to the enquiry officer with a direction that he will take evidence in the matter in front of the petitioner, give him an opportunity of cross-examining. In case, the evidence is oral and further if documentary evidence is used, the same shall be made available



to the petitioner after giving him liberty of rebuttal. The writ petition was disposed off directing the petitioner to cooperate in the enquiry.

9. A fresh enquiry was started which ended in passing of the orders of punishment, which were impugned in the writ application. The writ application having been allowed by the order impugned, the instant appeal has been preferred by the Corporation.

10. It is submitted by Mr. Raju Giri, learned Senior counsel appearing for the Corporation that the learned Single Judge failed to take into consideration that subsequent to the order dated 21.7.2008 having been passed by this Court in CWJC no.6635 of 2005, a fresh proceeding was initiated from the stage of production of witnesses and the original writ petitioner was provided with full opportunity to defend himself. It was only on conclusion of the enquiry that the enquiry officer came to the conclusion that the earlier enquiry report was proper, the charges had been proved and thus submitted the same before the disciplinary authority leading to passing of the order of punishment dated 27.11.2009 whereby the basic pay of the original writ petitioner was reduced from Rs.12,600/ to Rs.12,275/ withholding payment of arrears of salary to the



extent of 50% for the period commencing from the order of compulsory retirement till the date of reinstatement in service without benefit of increment falling due during the period.

11. The appeal preferred by the original writ petitioner was also rejected vide order dated 15.2.2011 on good grounds.

12. It is submitted by learned counsel appearing for the respondents that the original writ petitioner presented himself before the conducting officer on the date fixed for hearing. However, the presenting officer failed to bring any evidence nor did he produce any witness. The same would also be evident from the contents of the enquiry report brought on record as Annexure-14 to the writ application. It is submitted that enquiry officer in absence of the evidence led by the presenting officer, relied upon the contents of the earlier enquiry report which he could not have done in view of the order dated 21.7.2008 of this Court in CWJC no.6635 of 2005.

13. Having heard learned counsel for the parties and having perused the material on record, the facts not in dispute are that the original writ petitioner having been proceeded against in the year 1996 with respect to an incident of the year 1988-89, while he was posted in the Patliputra Branch



of the Corporation. After conduct of the enquiry, vide order dated 27.3.1998, he was imposed with the punishment of compulsory retirement. The order of punishment was challenged by the original writ petitioner by filing CWJC no.6635 of 2005 which was allowed vide order dated 21.7.2008. The orders of punishment as also that of the Board of Directors were both quashed and the matter was remanded to the enquiry officer who was to take evidence in the matter in front of the original writ petitioner giving him full opportunity of cross-examination in case the evidence was oral and providing him a copy of the documents with opportunity for him to rebut the same in case the evidence was documentary. It was thereafter directed that the respondents were to pass a fresh order depending on the finding which was to emerge on the said evidence.

14. In the opinion of the Court, the order dated 21.7.2008 of this Court was clear to the extent that the conducting officer could not rely on the earlier enquiry report and the fresh evidence, both oral and documentary was to be taken in the enquiry, giving full opportunity of cross-examination/rebuttal to the original writ petitioner. It is not in dispute that no witness was produced by the presenting officer or the Corporation in the enquiry conducted post the order dated



21.7.2008.

15. Further, on perusal of the enquiry report dated 21.5.2009 of the conducting officer, it transpires that the conducting officer concluded that for the reasons stated therein he has 'no other option but not to differ with the earlier enquiry reports submitted by the then conducting officer'. It was based on this enquiry report dated 21.5.2009 that the orders of punishment dated 27.11.2009 was passed by the Managing Director-cum-Disciplinary Authority which along with the appellate order was set aside by the learned Single Judge.

16. In the opinion of the Court, the conducting officer clearly erred in relying upon the earlier enquiry report, which was based on evidence having been taken behind the back of the original writ petitioner and the consequent order of punishment had been set aside by the aforesaid order dated 21.7.2008.

17. The order of punishment dated 27.11.2009 passed by the Managing Director-cum-Disciplinary Authority as also the appellate order dated 15.2.2011 being not sustainable was rightly set aside by the learned Single Judge with a direction to the respondents to pay the consequential benefits.

18. This Court finds no illegality nor perversity in



the judgement of the learned Single Judge.

19. The appeal is dismissed.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.05.2025
Transmission Date	NA

