

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.463 of 2022

In

Civil Writ Jurisdiction Case No.10409 of 2020

Ripu Daman Son of Ram Sharan Singh, Resident of Village-Gajra Chatar (near Tilaiya Junction), P.S.-Narhat, P.O.-Chhoti Jamuara, District-Nawada at present residing at C/o Dwarika Nath Choubey, Advocate, Sitaram Path Extension, Patel Nagar, P.O. and P.S. Town, District-Patna-800023.

... .. Appellant/s

Versus

1. The Bihar State Power Holding Company Limited through its Chairman cum Managing Director, Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman cum Managing Director, Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna.
3. The Director (Administration), Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna.
4. The General Manager (HR and Admin) Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna.
5. The Deputy General Manager (Personnel) Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna.
6. The General Manager (HR and Admin) South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
7. The Deputy General Manager (HR and Admin) South Bihar Power Distribution Company Limited, Vidyut Bhawan, Bailey Road, Patna.
8. The Under Secretary, Bihar State Power Holding Company Limited, Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Kumar Kaushik, Advocate
For the Respondent/s : Mr.Kumar Priya Ranjan, Addl. SC
Mr.Sudarshan Bharadwaj, Advocate
Mr.Sandeep Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL ORDER

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

4 22-01-2025 In the instant LPA, the appellant has assailed the

order of learned Single Judge dated 07.07.2022 passed in CWJC



No. 10409 of 2020.

Re:I.A. No. 01 of 2022

2. Heard I.A. No. 01 of 2022 for condonation of delay. There is delay of about 26 days in filing LPA. For the reasons stated in application read with the affidavit, delay of 26 days in filing LPA is condoned. Accordingly, I.A. No. 01 of 2022 stands allowed.

3. The appellant while working as an Assistant in the respondent-company was subjected to disciplinary proceedings on certain alleged misdeeds in respect of discharging his duties. In this regard, charge-memo was issued on 14.07.2016. The petitioner has denied the alleged charge on 27.07.2016. Having regard to the fact that Disciplinary Authority was not satisfied with the appellant's reply, he proceeded to appoint Inquiring Officer and to hold disciplinary inquiry. The Inquiring Officer has concluded the Inquiry while holding that Charge No. k(3), kh(2) and 2 are proved against the appellant. On receipt of Inquiring Officer report, Disciplinary Authority proceeded to issue second show-cause notice on 14.12.2017 for which appellant had submitted reply/explanation on 01.01.2018. Thereafter, Disciplinary Authority proceeded to impose the penalty of warning under Rule 29-(iv) of Standing Order *vide*



Bihar State Electricity Board, Industrial Employment (Standing Orders) Act, 1946. The appellant is stated to have filed appeal before the Appellate Authority and it was not considered on account of barred by limitation. Resultantly, he has filed CWJC No. 10409 of 2020. The learned Single Judge has passed the following orders:-

“After some arguments, learned counsel for power holding corporation submits that as per CCA Rules by now effect of the warning would have lapsed.

The petitioner’s counsel is not in a position to dispute such submission made by counsel for the power holding corporation.

In the circumstances, keeping the matter pending would serve no useful purpose, matter is disposed of.”

4. Appellant feeling aggrieved by the order of learned Single Judge and imposition of penalty, filed the present LPA.

5. Learned counsel for the appellant submitted that the learned Single Judge has committed error in taking note of CCA Rules instead of Standing Orders. The relevant provision applicable to the case in hand is Standing Orders. Under Standing Orders, in Para 29–A(iv) relates to imposition of penalty of written warning and record the same in the concerned register (service record of the concerned employee).

6. It is further submitted that the appellant was



subjected to yet another inquiry in which punishment of withholding of one increment without cumulative effect had been ordered. It was also subject matter of litigation before this Court. Withholding of one increment without cumulative effect penalty has been set aside by this Court in LPA No. 408 of 2022 on 19.05.2023.

7. Learned counsel for the appellant further submitted that ultimately penalty imposed is only warning and there is no specific provisions how it has to be given effect like it will be in vogue for a period of one year or any other specified tenure. Therefore, imposition of warning would not be a hurdle for his service conditions insofar as granting any service benefits. In the alternative, it was argued by the learned counsel for the appellant that explanation to the second show-cause has not been considered by the Disciplinary Authority while imposing penalty of warning. On these contentions, order of the learned Single Judge dated 07.07.2022 passed in CWJC No. 10409 of 2020 is liable to be set aside and so also order of penalty imposing warning.

8. *Per contra*, learned counsel for respondents is not disputing that the learned Single Judge has taken note of CCA Rules instead of Standing Orders. Further, he is also not



disputing that imposition of written warning in Para 29-A(iv) does not specify for what period imposition of penalty of warning would be in vogue.

9. Heard learned counsels for the respective parties.

10. The present case is matter of remand to the learned Single Judge. However, having regard to the fact that appellant is before this Court for the last about 5 years in filing CWJC No. 10409 of 2020 and it was decided on 07.07.2022 and the issue involved in the present *lis* is trivial in nature. Hence, we are deciding on merits.

11. The learned Single Judge has committed error in taking note of wrong statutory provision like CCA Rules. On the other hand, insofar as appellant is concerned he is governed by Standing Orders and not CCA Rules. If the provisions of Standing Orders is taken into consideration with reference to imposition of penalty of written warning and record the same in the concerned register (service record of the concerned employee), in that event, there is no specific provision to the extent that written warning would be in vogue for a particular period. Therefore, one has to draw inference it is only cautioning the appellant and it does not affect appellant's right or disturbing any service conditions from 21.03.2018, the date



on which penalty of written warning was imposed on the appellant.

12. If other than written warning penalty was imposed on the appellant, in such circumstances we would have remanded the matter to the Disciplinary Authority to consider appellant's explanation to the second show-cause notice. In view of the fact that it has not been considered. In order to give quietus to the litigation we proceed to set aside order of the learned Single Judge dated 07.07.2022 passed in CWJC No. 10409 of 2020. Insofar as imposition of written warning is concerned, we hold that written warning punishment would not affect of the appellant's service condition w.e.f. 21.03.2018 onwards. In other words, it is only cautioning the appellant in future.

13. With the above observations, the present LPA No. 463 of 2022 stands disposed of.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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