

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.544 of 2022

In

Civil Writ Jurisdiction Case No.1433 of 2008

Vijay Narayan Sao Son of Late Tuk Narayan Sao, Ex Administrative Officer, (Consumer Redressal Forum), Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, PS- Kotwali District-Patna at present Residing at Ashok Puri, Khajpura PO-B.V. College, PS- Shastrinagar Patna District- Patna.

... .. Appellant/s

Versus

1. The Bihar State Electricity Board (Presently re-designated as Bihar State Power Holding Company Limited) through its Secretary, Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman, Bihar State Electricity Board (Presently re-designated as Chairman cum Managing Director, Bihar State Power Holding Company Limited), Vidyut Bhawan, Bailey Road, Patna.
3. The Secretary, Bihar State Electricity Board (Presently re-designated as Bihar State Power Holding Company Limited), Vidyut Bhawan, Bailey Road, Patna.
4. The Joint Secretary (Now known as General Manager (Admin and HR), Bihar State Electricity Board (Presently re-designated as Bihar State Power Holding Company Limited), Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. D.K. Sinha, Sr. Advocate
Mr. Bajarangi Lal, Advocate
For the Respondent/s : Mr. Vivek Prasad, SC
Mr. Pratiyush Kumar, AC to SC

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 24-09-2025

Heard Mr. D.K.Sinha, learned senior counsel for the appellant assisted by Mr. Bajrangi Lal, learned counsel and Mr. Vivek Prasad, learned counsel for the Bihar State Electricity Board now Bihar State Power Holding Company Limited.



2. The present appeal is directed against the order dated 28.07.2022 passed in CWJC No. 1433 of 2008 whereby the Hon'ble Single Judge has been pleased to reject the claim of the appellant holding that the appellant is not entitled to alter his date of promotion to the post of Section Officer from 01.04.1998 to 22.11.1997.

3. The question of consideration in the present appeal is that the status of warning amounts to the punishment or not? The limited issue involved in the present case is that in the year 1998 a departmental proceeding was initiated against the appellant. The appellant was held guilty but the order of punishment was reduced to warning by the appellate authority and the appointing authority had affirmed the order of the enquiry officer. The appointing authority after enquiry had exonerated the appellant from all the charges. The disciplinary authority differed with the recommendation of the enquiry officer and had held that the appellant is guilty and awarded him punishment of withholding of three increments.

4. Learned counsel for the appellant submits that the appellant had preferred an appeal before the appellate authority and the appellate authority after due consideration of all the facts had been pleased to set aside the order of the



disciplinary authority and had modified the order of the punishment only with a remark of warning. He further submits that the appellant was eligible for promotion to the post of Section Officer on 22.11.1997 but he has given promotion w.e.f. 01.04.1998.

5. Learned counsel for the appellant submits that the learned Single Judge while considering the case of the appellant had relied upon the amended provision i.e., Regulation 29 (B) of the Bihar State Electricity Board Regulation, Patna which came into force on 21.11.1998 and the departmental proceeding was initiated against the appellant on 04.09.1998 which suggest that on the date on which the departmental proceeding was initiated against the appellant the said amended provision i.e., Regulation 29 (B) of the Bihar State Electricity Board Regulation was not in existence. Apart from that, on the date of eligibility no proceeding was pending against the appellant and the appellant was entitled to the promotion to the post of Section Officer w.e.f. 22.11.1997 instead of 01.04.1998. The appellant has been superannuated from the post in question in the year 2012 itself.

6. Learned counsel for the appellant further submits that the learned Single Judge had wrongly come to the



conclusion that the appellant is not entitled to alter his date of promotion to the post of Section Officer from 01.04.1998 to 22.11.1997 on the basis of the Bihar State Electricity Board Regulation under Rule 29 (B), as the same was not in existence on the date of commencement of the departmental proceeding.

7. Learned counsel appearing on behalf of Bihar State Electricity Board on the other hand has supported the order of the learned Single Judge and submits that the writ Court has passed the correct order but fairly submits that the regulation on which the learned Single Judge has passed the order has come into existence from 21.11.1998 and the departmental proceeding was initiated against the appellant on 04.09.1998.

8. We have heard the counsel for the parties at length and also perused the material available on record. After a careful examination of all the aspects, we have come to the conclusion that the appellant is entitled for the promotion w.e.f. 22.11.1997 instead of 01.04.1998, as the Regulation 29 (B) of the Bihar State Electricity Board, Standing Order, was inserted on 21.11.1998 i.e., after the initiation of departmental proceeding on 04.09.1998.

9. In view of the aforesaid, letter no. 547 dated



03.07.2007 and letter no. 1101 dated 19.11.2007 (Annexure 19 & 20 of the present appeal) by which the Respondent No. 3 has been pleased to reject the application of the appellant dated 04.06.2007 and 03.10.2007 (refusal for change of date of promotion) is set aside and the order of learned Single Judge dated 28.07.2022 passed in CWJC No. 1433 of 2008 is also set aside.

10. Accordingly, the present Letter Patent Appeal stands allowed.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2025
Transmission Date	NA

