

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 4207 of 2022

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Md Abul Kalam Son of Late Md. Samsuddin, Resident of Saharsa Basti, P.O.
and P.S. - Saharsa, Dist. - Saharsa.

... .. Petitioner/s

Versus

1. The Bihar State Power (Holding) Company Ltd. through its Deputy General Manager (HR/Adm), Vidyut Bhawan, Bailey Road, Patna.
2. The Chairman - Cum - Managing Director, Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
3. The North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
4. The Managing Director, North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
5. The General Manager (HR/Adm), Bihar State Power (Holding) Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
6. The General Manager (HR/Adm), South Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.
7. The Deputy General Manager (Revenue), North Bihar Power Distribution Company Ltd., Vidyut Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Dhanendra Chaubey, Advocate
For the Respondent/s : M/s Sanjeev Kr, Ravi Kr Pandey, Advocates

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CORAM: HONOURABLE MR JUSTICE RITESH KUMAR

ORAL JUDGMENT

Date : 16-02-2026

Heard learned counsel for the parties.

2 The present writ petition has been filed for the following reliefs:

“A For issuance of appropriate writ in the nature of certiorari or any other appropriate writ, order (s), direction (s) for quashing that part of order No 711 dated 20.05.2016 (Anneure 7) whereby and where under respondent No 2



the Chairman -cum- Managing Director and the Appellate Authority quashing the order of dismissal of the petitioner from the service of the Company issued by the Disciplinary Authority vide Order No 151 dated 31.01.2014 (Annexure 5) and reinstating the petitioner in service with immediate effect has awarded the following punishment to the petitioner:-

i Withholding of one increment with non-cumulative effect;

ii For the period of suspension, only subsistence allowance will be payable but the period will be counted for post retirement benefits;

iii The period of dismissal from service from 31.01.2014 till the date of issue of order during which Md Kalam remained out of service will be regularized on the basis of principle of “No Work, No Pay”.

B For quashing letter No 876 dated 26.04.2019 (Annexure 12) whereby and where under review petition of the petitioner has been rejected as communicated by Dy General Manager (Personnel) of the respondent Company.

C For issuance of appropriate order/direction to respondents to treat the period of suspension for the period from 23.08.2010 to 30.01.2014 on duty for all purposes as before withholding salary for the suspension period, no separate show cause notice was issued to petitioner.

D For issuance of appropriate order/direction to the respondents to treat the period from 31.01.2014 to 09.05.2016 on duty as the petitioner though willing to work was restrained from discharging his official duties



because of issuance of dismissal order dated 31.01.2014.

E For issuance of appropriate order/direction to the respondents to refund the amount of subsistence allowance for the period from 31.01.2014 to 20.10.2015 recovered from the salary of petitioner drawn because of non-communication of dismissal order.

F For allowing any other relief (s) to which the petitioner is found entitled to.”

3 The brief facts giving rise to the present writ petition is that the petitioner was appointed as Store Assistant vide Memo No 267 dated 23.06.2006 and accordingly, he gave his joining on 26.06.2007. Subsequently, he was promoted to the post of Assistant Store Keeper vide Memo No 1931 dated 16.10.2018 and while he was posted as Store Assistant in the central stores, Saharsa, he was placed under suspension with immediate effect vide Memo No 205 dated 23.03.2010. Departmental proceeding was initiated against the petitioner under the provisions of the Board's Certified Standing Orders and six charges were framed against him in which Enquiry Officer was appointed vide Memo No 946 dated 07.07.2010. The Enquiry Officer, after conducting the enquiry, submitted the enquiry report on 19.01.2011 wherein the Enquiry Officer found charges No 1, 2, 3, 4 and 6 to be proved and with respect to charge No 5, he opined that in absence of the physical verification of the materials and stores, the charge cannot



be framed relating to misappropriation of poles on the basis of report of pole factory.

4 The learned counsel for the petitioner submits that thereafter second show cause notice was issued to the petitioner, wherein enquiry report was also annexed but the petitioner could not submit his reply to the second show cause notice within the period specified. However, the Joint Secretary, by disagreeing with the findings of the Enquiry Officer, came to the conclusion that charge No 5 was also found to be proved and thereafter, issued another show cause to the petitioner vide Memo No 163 dated 25.02.2011 and directed the petitioner to submit his reply within 10 days. In compliance thereof, the petitioner submitted his reply on 10.03.2011, wherein he gave details of the charges levelled against him and denied all the charges. By the impugned order contained in Memo No 319 dated 18.03.2011, the petitioner was dismissed from service and it was further mentioned that apart from what he has got during the period of suspension, he will not be entitled to any other amount. Being aggrieved with the order of termination dated 18.03.2011, the petitioner preferred statutory appeal before the then Member (Administration) of the Board. Vide letter No 1007 dated 18.11.2011 issued under the signature of the Joint Secretary of the Board, the petitioner was intimated that



his appeal has been rejected, however the order passed by the appellate authority was not made available to the petitioner.

5 The learned counsel for the petitioner submits that the petitioner filed an application under Right to Information Act and obtained the order passed by the appellate authority on 31.10.2011. The petitioner filed a writ petition bearing CWJC No 56 of 2012 before this Court and the said writ petition was disposed of by a coordinate Bench of this Court vide order dated 01.02.2012 whereby the order passed by the Disciplinary Authority i.e. the order dated 18.03.2011 and the order passed by the appellate authority i.e. 31.10.2011 were set aside and liberty was granted to the respondent-authorities to proceed with the matter afresh from the stage of second show cause notice, by giving reasons for differing with the findings of the Enquiry Officer with respect to charge No 5 and permitting the petitioner to file his response to the same. In compliance of the order dated 01.02.2012 passed by a coordinate Bench of this Court, the Joint Secretary of the Board, disagreeing with the findings of the Enquiry Officer with regard to charge No 5, vide Memo No 495 dated 05.06.2012, directed the petitioner to submit his reply to the show cause notice. In compliance thereof, the petitioner submitted his reply to the second show cause notice on 09.07.2012, wherein he gave details



of the defence in respect of charge No 5 but the disciplinary Authority, without considering the defence of the petitioner, modified the order of punishment of the petitioner by the impugned order contained in Memo No 151 dated 31.01.2014 and inflicted the punishment of termination from service and further directed that during the period of suspension whatever the petitioner has received towards subsistence allowance, nothing will be paid further.

6 The learned counsel for the petitioner further submits that being aggrieved with the order dated 31.01.2014 passed by the Disciplinary Authority, the petitioner preferred appeal before the Chairman -cum- Managing Director (for brevity, **CMD**) on 11.01.2016. Upon the appeal preferred by the petitioner, the DGM (Revenue), North Bihar Power Distribution Company Limited (for brevity, **NBPDCL**) vide his order contained in Memo No 625 dated 20.05.2016, modified the punishment order passed earlier, to the extent that one increment of the petitioner will be withheld with non-cumulative effect, during the period under suspension whatever has been paid to the petitioner, no further amount will be paid, however, the said period will be treated for making calculation of post retirement benefit and no salary will be paid to the petitioner for the period during which he remained out of



service i.e. w.e.f 31.01.2014, till the date of issuance of the present order on the principle of “no work, no pay”. Subsequently, the petitioner obtained the copy of the order of the appellate authority which was provided vide letter No 597 dated 25.07.2017 issued under the signature of DGM (HR/Adm) of the NBPDC, Patna.

7 The learned counsel for the petitioner further submits that from perusal of the order passed by the appellate authority, it would transpire that although with regard to charge No 5, the appellate authority came to the conclusion with regard to 148 poles, that the same has been regularized belatedly in 2010. However, he opined that it was the duty of the petitioner to keep the store records up to date which shows dereliction of duty and found charge No 5 to be partially proved. Being aggrieved with the order passed by the appellate authority, the petitioner filed a review before the appellate authority, but vide letter No 876 dated 26.04.2019, the petitioner was intimated that his review application could not be entertained on account of delay of two years and eight months.

8 A counter affidavit has been filed on behalf of respondents No 3, 4 and 7, wherein it has been stated that the petitioner was proceeded for grave misconduct and serious irregularities, for which departmental proceeding was initiated and



out of six charges, five charges were found to be proved and charge No 5 was not proved in absence of the evidence. It was further submitted that after following due process, the petitioner was dismissed from service and the appeal preferred by the petitioner was also rejected. The learned counsel for the respondent- NBPDCCL further submits that petitioner preferred a writ petition and vide order dated 01.02.2012, while quashing the punishment order as well as the appellate order, the matter was remitted back to proceed afresh and in compliance thereof, the order of punishment was modified to the extent indicated in Memo No 151 dated 31.01.2014. The petitioner preferred a review, but the same was dismissed on the ground of delay.

9 The learned counsel for the petitioner submits that although the charge No 5 was found to be partially proved since from the order passed by the CMD of the NBPDCCL, it will transpire that with regard to shortage of 148 poles in the years, 2007, 2009 and 2010, the same were regularized vide different letters dated 06.02.2010, 18.02.2010, 10.02.2010 and 04.01.2010 and only on the basis of the above charge, which from the records itself, appears to be not of defalcation, the appellate authority found the charge No 5 to be partially proved and opined that since the petitioner has not taken care in keeping the records up to date,



which goes to show his dereliction of duty, he went ahead and passed the impugned order of punishment which was communicated vide Memo No 625 dated 20.05.2016.

10 Having heard the learned counsel for the parties and after going through the document available on record, I find that the charge No 5 was found not proved by the Enquiry Officer, however disagreeing with the same, the Disciplinary Authority issued second show cause notice to the petitioner and after considering the same, passed the order of termination from service, which was affirmed by the appellate authority, however the same were quashed by a coordinate Bench of this Court vide order dated 01.02.2012 passed in CWJC No 56 of 2012 and liberty was granted to the respondents to proceed afresh from the stage of second show cause notice by giving reason for disagreeing with respect to charge No 5. The Disciplinary Authority again issued second show cause notice to the petitioner and after considering the reply submitted by the petitioner, went ahead with the order of punishment and terminated the petitioner from service. However, the same was modified by the appellate authority, to the extent that the order of termination was modified by giving punishment of stoppage of one increment with non-cumulative effect, for the period under suspension, apart from what has been given to the



petitioner, nothing will be paid to him, however the period under suspension will be counted for giving post retirement benefits and the period during which the petitioner was out of service i.e. from 31.01.2014 till the issuance of the order impugned i.e. 20.05.2016, the petitioner will not be entitled to any salary in view of principle of no work no pay. This Court further finds that the authorities did not take into consideration the fact that no loss was caused to the NBPDCCL on account of the shortage of 148 poles, which was later on regularized. Accordingly, the order impugned contained in Memo No 625 dated 20.05.2016 issued by the DGM (Revenue), NBPDCCL and letter No 597 dated 25.07.2017 issued under the signature of the DGM (HR/Adm), NBPDCCL deserve to be set aside and are, accordingly, set aside.

11 The matter is remitted to the appellate authority, i.e. the CMD, Bihar Power Holding Company Limited to take fresh decision in view of the fact that no pecuniary loss or shortage was caused to the Board, since the poles were found to be regularized and the punishment which has been passed is disproportionate to the charge, which has been partially proved against the petitioner.

12 The entire exercise must be completed within a period of three months from the date of receipt/production of a copy of this order.



13 With the aforesaid observation and direction, the writ petition is allowed.

14 Pending application, if any, also stands disposed of.

(Ritesh Kumar, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.02.2026
Transmission Date	NA

