

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15717 of 2012

=====

Vijay Pd. S/O Late Shital Prasad R/O Village, P.O. And P.S.- Madhwapur,
District- Madhubani, Present Address C/O Shakti Medico, Main Road, Birpur,
P.S.- Birpur, District- Supaul

... .. Petitioner/s

Versus

1. The Bihar State Electricity Board
2. Secretary Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, Patna
3. Joint Secretary Bihar State Electricity Board, Vidyut B Bailey Road, Patna
4. The Chief Engineer RE and HRD, BSEB Headquarter, Patna
5. General Manager Cum Chief Engineer Transmission Zone-Ii, Muzaffarpur
6. Electrical Superintending Engineer, Transmission Circle, Purnea
7. Electrical Executive Engineer, Koshi Hydel Power Station, Birpur, Supaul
8. The Chairman cum Managing, Bihar State Power Holding Company Limited, Vidyut Bhawan, Patna.
9. The Managing Director, Bihar State Power Generation Company Limited, Vidyut Bhawan Patna.
10. The Deputy General Manager (HR and Admin), Bihar State Power Generation Company Limited, Vidyut Bhawan Patna.
11. The Under Secretary, Bihar State Power Generation Company Limited, Vidyut Bhawan Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. D.K.Sinha, Sr. Advocate
		Mr. Bajarangi Lal, Advocate
For the Respondent/s	:	Mr. Anand Kumar Ojha, Sr. Advocate
		Mr. Abhishek Rai, Advocate

=====



CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT
Date : 20-02-2026

1. Heard Mr. D.K. Sinha, learned Senior counsel assisted by Mr. Bajrangi Lal learned counsel for the petitioner and Mr. Anand Kumar Ojha learned Senior counsel assisted by Mr. Abhishek Rai learned counsel for the respondent Bihar State Power Holding Company Limited.

2. The petitioner has filed the instant application for the following relief:

“i. For quashing of resolution contained in Memo No.376 dated 19.12.2011 (Annexuer-13) issued under signature of respondent no.3 Joint Secretary, where under and whereby two punishments have been awarded to the petitioner viz. censure to be effective for one year from date of issuance of order and stoppage of two increments with cumulative effect ignoring the fact charges levelled against petitioner has not been found proved during enquiry.
ii. For quashing of communication of respondent no.3 contained in letter no.127 dated 21.05.2012 (Annexure-15) whereby intimation is made to the petitioner that after due consideration memo of appeal presented by the petitioner has been dismissed, but the reasons for rejecting the appeal has not been assigned and same has been rejected without providing opportunity of hearing to the petitioner.



iii. And/or for any other relief/relief to which petitioner is entitled in the facts and circumstances of the present case.

iv. For setting aside the order contained in resolution no.1840 dated 18.11.2014 issued under signature of the Under Secretary, Bihar State Power Generation Company Limited Patna which has been passed during pendency of the instant writ petition where under and whereby order contained in Board's resolution no.375 dated 17.12.2011 has been modified to the extent that the punishment awarded to the petitioner has been confined to only one punishment i.e. stoppage of two increment with cumulative effect."

3. The case of the petitioner in brief is that with respect to the work done in connection with Koshi Hydro Electric Power Station, Birpur between 23.7.1992 and 17.11.1995, an inquiry was conducted by the Audit team from 7.2.2001 to 1.5.2001. The Audit team submitted a report showing irregularities to have been committed. The petitioner who was also posted as Junior Electrical Engineer in the Birpur Koshi Hydel Project, was issued with a show cause notice seeking explanation. The petitioner submitted his reply on 5.1.2003. The petitioner was once again served with a notice on 23.3.2010 asking him to submit his reply with respect to the Boards letter dated 11.11.2009. It is the case of the petitioner



that the petitioner asked for certain letters to enable him to give an effective reply.

4. The petitioner was served with the memo of charge on 29.5.2010, initiating a departmental proceeding against him and asking him to submit his written defence. The two charges against the petitioners were that firstly, to avoid taking approval of the higher authorities, similar works were split into different works which included cleaning of the power house at an estimate of Rs. 1,35,582/. There were irregularities in the process of disbursement of the amounts. The second charge was that irregular payment to the tune of Rs. 2,11,806.90 had been found in connection with motor repairing and other repairing works.

5. The inquiry proceeded wherein the petitioner states that by letter dated 17.7.2010, he requested the Inquiry Officer to provide documents which were not given to him. The petitioner submitted his written statement before the Inquiry Officer on 3.8.2010 requesting him to exonerate him from the charges.

6. The inquiry report was submitted.

7. It is the categorical case of the petitioner that without providing him with the opportunity of hearing, without giving him a second show cause as also without providing him



with a copy of the inquiry report, the respondents came out with the order dated 19.12.2011 imposing the punishment of censure on the petitioner as also stoppage of two annual increments with cumulative effect.

7. The appeal preferred by the petitioner was dismissed and information of its dismissal was communicated to the petitioner by letter dated 21.5.2012 of the Joint Secretary, Bihar State Electricity Board, Patna/General Administration Department.

8. The petitioner thereafter filed a representation before the Chairman-cum-Managing Director, Bihar State Power Holding Company Limited on 12.8.2014, in response to which he was asked to appear for personal hearing before the Chairman on 29.9.2014. He accordingly appeared and was heard.

9. Subsequently, by resolution dated 7.10.2014 issued under the signature of the Deputy General Manager, Bihar State Power Generation Company Limited, the petitioner was served with the copy of the inquiry report and a second show cause notice asking the petitioner to file his reply within seven days. The petitioner filed his reply on 10.10.2014.

10. It is the case of the petitioner that without considering the petitioner's reply to the second show cause, the



respondents came out with an order contained in the resolution dated 18.11.2014 under the signature of the Under Secretary imposing the punishment of stoppage of two increments with cumulative effect.

11. It is submitted by Sri D.K. Sinha, learned Senior counsel appearing for the petitioner that inspite of repeated request by the petitioner for supply of the relevant documents, the same was not supplied, thus creating difficulty for the petitioner to give an effective reply to the charges levelled against him. It is further submitted that the inquiry report was not served on the petitioner and the order of punishment came to be passed on 19.12.2011. A copy of the inquiry report was served on him much later on 7.10.2014. Perusal of the contents of the inquiry report would show that none of the two charges were found proved against the petitioner. In support of his contention, reliance has been placed by learned Senior counsel on the judgment in the case of **Jagdish Shah versus the State of Bihar; 2011 (3) PLJR 653, Ravi Ranjan versus Dakshin Bihar Gramin Bank and others (judgment dated 1.2.2014; CWJC no. 1380 of 2020), Surendra Prasad Singh versus Principal Secretary, Water Resources Department (order dated 28.4.2001; CWJC no. 2624 of 2017) and Punjab National Bank versus Kunj Bihari**



Mishra; (1998) 7 SCC 84. It is thus submitted that the modified order of punishment dated 18.11.2014 whereby the punishment of stoppage of two annual increment with cumulative effect has been imposed on the petitioner, is not sustainable and be set aside.

12. The application is opposed by Mr. Anand Kumar Ojha, learned Senior counsel appearing for the Bihar State Power Holding Company Limited. It was submitted that a departmental proceeding was started against the petitioner on serious charges of the petitioner having split up the estimates of the different works to be carried out to avoid taking the orders of the competent authorities. The other charge was of irregular payments to the tune of Rs. 2,11,806.90 in various motor repairing as also other repairing works carried out. On the issue of non-supply of documents, it is submitted by learned Senior counsel for the respondent Board that from perusal of the letter dated 8.11.2010 brought on record as Annexure-9 to the writ application, it would transpire that an opportunity was given to the petitioner to come and inspect the documents with respect to audit in the audit department of the Board on any working day.

13. Learned Senior counsel for the respondent Board further submitted that the respondents came out with the order of punishment against the petitioner on 19.12.2011. The



appeal preferred by the petitioner having been rejected, he moved before the Chairman of the Board on 22.8.2014.

14. It is argued by learned Senior counsel appearing for the petitioner that the petitioner was served with a resolution dated 7.10.2014 by way of a second show cause notice asking the petitioner to file his reply within seven days. The said notice provided the reasons for the disciplinary authority to have differed with the inquiry report, a copy of which was enclosed with the said notice. The petitioner filed his reply on 10.10.2014. It is after taking into consideration the contents of the petitioner's reply that the Board modified the order of punishment passed against the petitioner on 19.12.2011. The punishment of censure was withdrawn and by order dated 18.11.2014, only the punishment of stoppage of two annual increments with cumulative effect remained against the petitioner.

15. Learned Senior counsel for the respondent Board further submitted that petitioner has not challenged the order of the Chairman dated 20.9.2014 nor the second show cause notice. It is further submitted that the case of Shri Ramavatar Saha, Assistant Executive Engineer and Pramod Kumar Kanth, Junior Engineer who were also proceeded against leading to imposition of punishment of deduction of 10%



pension, were different and therefore the difference in the orders of punishment. It is thus submitted that the petitioner having been given an opportunity at each stage, having been provided with the opportunity to inspect all the documents as also having been given a second show cause notice, enclosing with the same a copy of the inquiry report as also the reasons for differing with the contents of the inquiry report, the petitioner has not been able to point out any procedural irregularities. The scope of judicial review under Article 226 of the Constitution in a judicial proceeding being very limited, there being no merit in the instant writ application, the same be dismissed.

16. Reliance has been placed by learned Senior counsel for the respondent Board on the judgments of the Hon'ble Supreme Court in the case of **B.C. Chaturvedi versus Union of India and Ors.; (1995) 6 SCC 749, Pravin Kumar versus Union of India & Ors.; (2020) 9 SCC 471, State Bank of Patiala & Ors. Versus S.K. Sharma; (1996) 3 SCC 364 and Chairman, State Bank of India & Anr. versus J.M. James; (2022) 2 SCC 301.**

17. Heard learned counsel for the parties and perused the material on record.

18. The relevant facts in brief are that the petitioner who was posted as a Junior Electrical Engineer was proceeded



against in a departmental proceeding with the memo of charge having been served on him on 29.5.2010.

19. The petitioner submitted his written defence to the two charges.

20. An inquiry report was submitted, however without the same having been served on the petitioner, the respondents passed an order of punishment dated 9.12.2011 under the signature of the Joint Secretary, imposing punishment of censure and stoppage of two increments with cumulative effect.

21. The appeal preferred by the petitioner was dismissed by order dated 21.5.2012 and further a representation filed by the petitioner before the Chairman was considered by him and it was the Chairman who by his order dated 7.10.2014 issued yet another notice on the petitioner, this time enclosing a copy of the inquiry report dated 11.1.2011 and giving therein brief reasons for differing with the same. It was on the reply filed by the petitioner that the Additional Secretary by order dated 18.11.2014 modified the order of punishment withdrawing the punishment of censure and the only punishment which remained was stoppage of two annual increments with cumulative effect.

22. From the facts stated hereinabove, there is no dispute with respect to the fact that no copy of inquiry report



dated 11.1.2011 having been served on the petitioner, the respondents proceeded to pass the order of punishment dated 19.12.2011 and also proceeded to dismiss the appeal by order dated 21.5.2012. It was much thereafter that the petitioner was served with a copy of the second show cause notice on 7.10.2014 where after the order of punishment was modified and by order dated 18.11.2014 while withdrawing the punishment of censure, the punishment of stoppage of two increments with cumulative effect remained.

23. In the opinion of the Court, on receipt of the inquiry report from the Conducting Officer the Disciplinary Authority was required to forward a copy of the inquiry report together with its own findings from the points on which it was differing with the same to the Government servant ie the petitioner herein who was to be given an opportunity to respond thereto. The petitioner not having been given a copy of the inquiry report, the same was clearly in teeth of the judgment of the Hon'ble Supreme Court in the case of **Punjab National Bank versus Kunj Bihari Mishra; (1998) 7 SCC 84**.

24. It may be observed here that even the appeal preferred by the petitioner against the order of punishment was dismissed.

25. Though while considering the representation filed by the petitioner the Chairman provided to the petitioner a



copy of the inquiry report with his brief reasons for not agreeing with the same, in the opinion of the Court, the opportunity having been given to the petitioner at this stage would not justify either the order of punishment nor the order dismissing his appeal.

26. For all these reasons, in the opinion of the Court, neither the order of punishment dated 19.12.2011 or the order dismissing his appeal dated 21.5.2012 nor the modified order of punishment dated 18.11.2014 are sustainable.

27. It has been contended by learned Senior counsel appearing for the respondent Board that the petitioner has not challenged the Chairman's order issuing second show cause notice to the petitioner and serving with the same a copy of the inquiry report. This, in the opinion of this Court, would not be of any consequence, the petitioner having challenged the final modified order of punishment dated 11.11.2014. So far as contention of learned Senior counsel for the respondent with respect to the limited scope of judicial review under Article 226 of the Constitution and also with respect to the submission that no prejudice was caused to the petitioner in the departmental proceeding, the petitioner having got a copy of the inquiry report as also the reasons for the authorities to having differed from the same, as stated above, corrective measures taken at such belated stage by the Chairman, while considering the



representation of the petitioner, the same would still be a clear cut violation of the principles of natural justice as held by the Hon’ble Supreme Court in different cases.

28. In view of the facts and circumstances stated herein above, in the opinion of the Court, the petitioner has made out a case for interference in the order of punishment. As such, the order contained in memo no. 376 dated 19.12.2011 (Annexure-13) issued under the signature of the Joint Secretary, Bihar State Electricity Board (respondent no.3), the order contained in letter no. 127 dated 21.5.2012 (Annexure-15) issued under the signature of the Joint Secretary, Bihar State Electricity Board as also the order contained in resolution no. 1840 dated 18.11.2014 issued under the signature of the Under Secretary, Bihar State Power Generation Company Ltd. (Annexure-D) are all set aside.

29. The writ application stands allowed with all consequential benefits.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	3.12.2025
Uploading Date	20.2.2026
Transmission Date	NA

