

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15018 of 2006

JENESHWAR SINHA, Son of Late Rameshwar Sinha Ramesh, Resident of village – Tal, P.O.-Sikri, P.S.-Haspura, District – Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Commissioner-cum-Secretary, Road Construction Department, Govt. of Bihar, Visheshwaraiya Bhawan, Bailey Road, Patna.
3. The Joint Secretary, Road Construction Department, Govt. of Bihar, Visheshwaraiya Bhawan, Bailey Road, Patna.
4. Engineer in Chief, Govt. of Bihar, Visheshwaraiya Bhawan, Bailey Road, Patna.
5. The Chief Engineer, South Bihar Upbhag, Road Construction Department, Govt. of Bihar, Patna.
6. The Superintending Engineer, Magadh Road Circle, Gaya, District – Gaya.
7. The Deputy Secretary cum Chief Vigilance Officer, Road Construction Department, Govt. of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate.

For the Respondent/s : Mr. Sanjay Kumar, AC to GA-13.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 02-12-2021

Heard the parties.

The petitioner was posted as Assistant Engineer in the Road Construction Division at Jehanabad, when he was put under suspension in contemplation of the departmental proceeding vide Resolution dated 31.03.1999 effective from 08.03.1999. During pendency of the departmental proceeding, the petitioner retired from service on 31.01.2001.

In the departmental proceeding, punishment was awarded without giving opportunity of hearing to the petitioner by order dated 14.03.2005 vide order at Annexure-9. The



petitioner challenged the aforesaid order of punishment before this Court in CWJC No. 7854 of 2005 which was disposed of on 27.10.2005 by quashing the impugned order and direction was issued to the respondent authorities to pass appropriate order after giving opportunity of hearing to the petitioner. Thereafter, the authorities asked the petitioner to file show cause and the petitioner filed show cause on 04.01.2006, a copy at Annexure-11.

By the impugned notification dated 03.10.2006 at Annexure-12, the authorities passed a cryptic order by stating that “after consideration of the show cause of the petitioner, the same was rejected and in the light of the order dated 14.03.2005, the recovery of the mentioned amount was to be made.”

Learned counsel for the petitioner submits that the disciplinary authority was exercising quasi-judicial power. Therefore, he was bound to mention the defence raised by the petitioner in his show cause which would have been material for consideration before the authority and thereafter by a reasoned order he should have rejected the same. In absence of any reason, the impugned order suffers from non-application of mind and arbitrariness, as such is not sustainable in law.

The State has filed detailed counter affidavit



controverting the claim of the petitioner, however does not dispute that the impugned order does not disclose the defence of the petitioner or reason for non-acceptance of the same.

In Roop Singh Negi Vs. Punjab National Bank & Ors., reported in **(2009) 2 SCC 570**, relied upon by learned counsel for the petitioner, the Hon'ble Supreme Court said that “Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties.” “Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned.”

Evidently in the case on hand, the disciplinary authority has not assigned any reason for awarding the punishment against the petitioner. Hence the impugned order is hereby quashed. There is no need for further remand of this matter, as sufficient injustice has been done with the petitioner who retired in the year 2001.



Hence authorities are directed to make payment of entire retiral dues including entire salary for the period of suspension minus already paid amount. The Suspension period was in between 08.03.1999 to 30.11.2000. If any recovery has been made from the petitioner in pursuance of the impugned order that would also be refunded to the petitioner.

This writ application stands allowed.

(Birendra Kumar, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	06.12.2021
Transmission Date	N.A.

