

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1654 of 2018

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Sudama Devi Wife of Late Jhalakdeo Singh, Resident of Polsan Road, Digha,
Patna near Modern Public School, Police Statin- Digha, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Industries Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna.
3. The Director, Industries Department, Government of Bihar, Patna.
4. The Director, Upendra Maharathi Udyogship Anusandhan Sansthan, Bihar, Patna.
5. The Deputy Director, Upendra Maharathi Udyogship Anusandhan Sansthan, Bihar, Patna.
6. The Deputy Development Officer, Upendra Maharathi Udyogship Anusandhan Sansthan, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Ms.Mahasweta Chatterjee
For the Respondent/s : Mr.Suresh Kumar AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 09-01-2023

Through this writ application the petitioner has
prayed for the following reliefs:-

- “(i) That an appropriate writ may be issued quashing the order passed by the Respondent No. 2 communicating vide Memo No. 1545 dated 24.05.2017 as contained in Annexure-10 whereby and whereunder the Respondent No. 2 has been pleased to reject the appeal filed by the petitioner;
- (ii) That an appropriate writ may be issued



quashing the order dated 26.06.2015 issued vide Memo No. 2550 passed by the Respondent No. 3 as contained in Annexure-7 whereby and whereunder he has been pleased to award the punishment of forfeiture of all the retirement benefits namely, pension, gratuity, leave encashment of the petitioner in a departmental proceeding;

(iii) That an appropriate writ may be issued commanding upon the respondent authority to pay the petitioner full salary for four months prior to her retirement with interest;

(iv) That an appropriate writ may be issued commanding upon the respondent-authority to take steps for granting the petitioner her total retiral benefits i.e. pension, gratuity and leave encashment after quashing Annexure-7 and Annexure-10.

(v) Any other relief or reliefs be granted to the petitioner as he is legally entitled in the facts and circumstances of the case.”

Learned counsel for the petitioner makes a short submission to assail the order of punishment to the effect that the impugned order (Annexure-10) has been passed without taking into consideration the reply to the show-cause filed by the petitioner. He further submits that without application of mind and following the prescribed procedure as contemplated under Rule 17 of Bihar Government Servants (Classification,



Control & Appeal) Rules, 2005, the respondent no. 2 passed the impugned order as contained in Annexure-10. In the entire impugned order there is no discussion about the plea which has been taken by the petitioner and no reason has been assigned, as to why the reply to the show cause filed by the petitioner was not acceptable to the disciplinary authority.

On the other hand, learned counsel for the State is unable to dispute the contention made on behalf of the petitioner.

This court finds merit in submission of the petitioner. Perusal of the impugned order dated 24.05.2017 as contained in Annexure-10 goes to show it does not contain any discussion of the defence of the petitioner nor any reasons have been assigned for its rejection.

Having considered the rival submissions of the parties and materials available on record, impugned order bearing Memo No. 1545 dated 24.05.2017 as contained in Annexure-10 is hereby set aside, as the same is in complete violation of Rule 17 of the Bihar C.C.A Rules, 2005. The matter is remitted for its consideration in accordance with law from the stage of second show-cause.

With the aforesaid observation and direction, this



writ petition stands allowed.

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	
CAV DATE	
Uploading Date	19.01.2023
Transmission Date	19.01.2023

