

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1458 of 2018

In

Civil Writ Jurisdiction Case No.3457 of 2004

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Ram Datta Prasad Sharma, aged about 76 years, Son of Late Ram Keshwar
Sharma, resident of Village- Achuara, P.S.- Barh, District- Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Secretary, Department of Water Resources,
Government of Bihar, Patna.
2. The Secretary, Department of Water Resources, Government of Bihar, Patna.
3. The Deputy Secretary, Department of Water Resources, Government of
Bihar, Patna.
4. The Chief Engineer-cum-Engineer-in-Chief, Water Resources, Department
Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Raja Ram Mishra, Advocate

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 03-03-2022

Heard Mr. Raja Ram Mishra, the learned

Advocate for the appellant and the learned counsel for



the State.

2. The appellant had been subjected to a departmental proceeding with respect to the charges relating to making excess payment by violating the rules in that regard; payment of security money without completion of the work etc.

3. Though the appellant had participated in the inquiry, but the inquiry report, dated 30.05.1995, was never served upon him. Nonetheless, the inquiry report was acted upon and he was served with an order of punishment dated 13.02.1998. The punishment included censor and withholding of three annual increments with cumulative effect as well as recovery of Rs. 1.06 lacs with the additional stipulation that the appellant shall not be entitled to anything beyond the subsistence allowance during the period of suspension.

4. The aforesaid order could not be sustained in C.W.J.C. No. 7997 of 1998, whereby a Bench of this Court had remitted the case to the concerned authority for passing an appropriate order in



accordance with law after giving opportunity to the appellant to file his response to the inquiry report.

5. It appears from the records that again the disciplinary authority reiterated the same punishment, *viz.*, censor; withholding of three annual increments with cumulative effect and recovery of Rs. 1.06 lacs without any entitlement of the appellant to receive anything except subsistence allowance during the period of suspension.

6. This order also appears to have been challenged *vide* C.W.J.C. No. 9242 of 2000. However, the same was withdrawn in order to prefer an appeal against the aforesaid order of punishment.

7. It appears that a representation preferred by the appellant before the Government was treated as appeal and the concerned authority, by order dated 09.08.2000, chose not to interfere with the order of punishment, which was communicated to the appellant on 04.7.2002.

8. The major contention of the appellant



before this Court is that the disciplinary authority as also the appellate authority, both, have not adverted to the reasons given by him to dispute the charges against him. Apart from this, it has been urged that the representation of the appellant, which was not in the nature of appeal, was taken into account and an order was passed, as if the appeal was being disposed off. In the aforesaid representation which was so decided, not many grounds which had been taken in appeal found mention and, therefore, the appellant is aggrieved by the order of the appellate authority, wherein the relevant issues were not placed before it nor the appellate authority appears to have given its consideration over such issues.

9. The learned single Judge, after having gone through the inquiry report; the order of the disciplinary authority as also the appellate authority, found that the charges under counts 1, 1a and 2 were conclusively proved, whereas Charge No. 4 was found to have been partially proved.



10. After having perused the order passed by the learned single Judge, we are of the view that no interference is required to be made. All the procedural formalities were complied with. The appellant has participated in the departmental proceeding and has also been given sufficient opportunity to challenge the inquiry report as also the decision of the punishment before the appellate authority.

11. With respect to the contention of the appellant that his representation was treated as an appeal, we do not find any force in the aforesaid submission as the appellant has chosen not to file his appeal despite clear directions by this Court and since the matter was sent to the appellate authority, *i.e.*, the Government, for its endorsement of the decision of the disciplinary authority, an order was passed which took note of the circumstances and the background facts as well as the evidence collected against the appellant.

12. We, thus, do not find any reason to



interfere with the order passed by the learned single Judge.

11. This appeal has no merit and is, therefore, dismissed.

(Ashutosh Kumar, J)

(Anjani Kumar Sharan, J)

Praveen-II/-

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