

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2263 of 1999

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Raghunath Ram, son of Shri Deochand Ram, resident of Village
Jawainia, P.S. Marhuara, District-Saran

.... Petitioner/s

Versus

1. The State of Bihar, through the Secretary, Personnel and
Administrative Reform Department, Main Secretariat, Patna
2. Under Secretary, Personnel and Administrative Reforms
Department, Main Secretariat, Patna
3. Additional Secretary, Personnel and Administrative Reforms
Department, Main Secretariat, Patna

. Respondent/s

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Appearance :

For the Petitioner/s : Mr. R.N.Mukhopadhyay

For the Respondent/s : Mr. Mritunjay kumar, AC to AAG-10

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT

Date: 02-04-2015

1. Heard Mr. R.N. Mukhopadhyay, learned
counsel appearing on behalf of the petitioner and Mr.
Mritunjay Kumar, learned AC to AAG-10 appearing on
behalf of the respondents State of Bihar and its officials.

2. The petitioner in the present writ application
seeks quashing of the resolution dated 24.3.1998 issued
under the signature of the Under Secretary, Personnel
and Administrative Reforms Department, Government of
Bihar, Patna whereby, following punishments have been
imposed upon him:-

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- “(a) Censure (1978-79)
(b) Reduction in scale by way of fixing the basic at the initial stage (i.e. of the post of Deputy Collector and the basic fixed at the initial stage which the petitioner enjoyed as back as on 1.12.1979, i.e. 20 years back).
(c) Recovery of Rs. 33,000/- in 33 equal installments from the salary of the petitioner.
(d) The petitioner will not get anything other than the subsistence allowance, which has been paid to the petitioner during the suspension period.”

3. The petitioner was posted as Block Development Officer of Narpatganj Block under the District of Araria for the period 18.5.1987 to 28.4.1988. The disciplinary proceeding, which was initiated against the petitioner and finally culminated into imposition of punishments as noted above, relates to the said period when the petitioner was posted as Block Development Officer, Narpatganj.

4. Before I come to the merits of the case, I must indicate the brief history of institution of this third round of litigation against the action of the respondents relating to the charge in question.

5. Altogether five charges were framed against



the petitioner which were served upon the petitioner through memo no. 30124 dated 07.09.1988. An Inquiry Officer was appointed. The petitioner was put under suspension. He had approached this Court by filing CWJC No. 12429 of 1992 challenging the order of suspension. By the time the said CWJC No. 12429 of 1992 was taken up by this Court for final disposal on 7.12.1993, the Inquiry Officer had already submitted his report. Accordingly, CWJC No. 12429 of 1992 was disposed of by an order dated 7.12.1993 directing the respondents to pass an appropriate order in accordance with law. The petitioner thereafter approached this Court by filing CWJC No. 4665 of 1994 seeking quashing of the enquiry report itself on the ground that no documents were supplied to him, which were the basis for the findings recorded in the enquiry report, holding the petitioner guilty of the charges levelled against him. This Court allowed the said writ application by an order dated 21.4.1995 and quashed the enquiry report with a direction to the disciplinary authority to either nominate any person as an Inquiry Officer or direct the same person to hold an enquiry. It was mentioned that the



petitioner would be supplied copies of all the papers upon which the State wanted to rely, in support of the charge. The Court further observed that if the petitioner, wanted any other paper having bearing upon the charge, the same would also be supplied to him. From the pleadings, it appears that this time the Divisional Commissioner, Purnia Division was appointed as an Inquiry Officer who submitted his report on 09.04.1997. The Inquiry Officer found the charges levelled against the petitioner to have been proved and accordingly the disciplinary authority based on such finding imposed upon the petitioner, punishments as indicated above. In the meanwhile, the petitioner had approached this Court by filing CWJC no. 2595 of 1996 complaining that he was not being given benefit of promotion in junior selection grade on account of the pendency of certain charges. This Court disposed of the writ application by an order dated 7.7.1997, directing the State respondents to conclude departmental proceeding within four months. Thereafter, based on the report of the Inquiry Officer, the order impugned came to be passed.



6. On close scrutiny of the charge-sheet which has been brought on record by way of Annexure-3 to the present writ application, it appears that the charge against the petitioner related to obtaining administrative sanction with respect to digging work for construction of pond at a place under Narpatganj Block, concealing the fact that there was dispute of title over the land on which the pond was proposed to be constructed and has also concealed the fact that in view of the dispute of title over the land, his predecessor Block Development Officer had stayed the digging work. The allegation against the petitioner is that he sought and obtained administrative sanction from the Sub Divisional Officer for the said work of digging the earth, only for the purpose of ensuring payment of balance amount to the contractor, without ensuring whether the work has been actually executed.

7. It is not in dispute that the petitioner had participated in the departmental enquiry before the Inquiry Officer and had denied the charges levelled against him. He also explained the circumstance in which he had sought for administrative sanction for

construction of work, which of course did not find favour with the Inquiry Officer and the disciplinary authority.

8. This is also not in dispute that there was no witness in support of allegation against the petitioner that he paid the balance amount to the contractor without actual work having been done. It is evident from the record that there was no witness examined in course of the departmental enquiry in support of the charge.

9. Learned counsel appearing on behalf of the petitioner has submitted, referring to the admitted fact that the process of digging for the purpose of construction of a pond had started in the year 1984 itself. The Panchayat Seveak of the concerned Gram Panchayat was awarded the work in March, 1984 who executed the work from 16.3.1984 to 30.4.1984. Referring to Annexure-8 of the writ application, which is the earlier enquiry report submitted in the departmental enquiry, learned counsel has submitted that in the year 1983-84 itself the Assistant Engineer had assessed the work done by the Panchayat Secretary (Contractor) and had evaluated the worth of work to be Rs. 40,150/-. He



submits that merely on the basis of claim raised by one Mansu Mandal that he was owner of the land over which the earth work was being done, further work was directed to be stopped on 7.4.1984. He has further submitted that despite the fact that the Panchayat Secretary was asked not to continue with the work on 7.4.1984, he continued with it from 1.4.1984 to 21.5.1984. On 23.3.1985 the Assistant Engineer refused the sanction amount for construction of pond and reduced it from Rs. 59,009/- to 49,650/-. On 3.9.1986 the Panchayat Secretary (Contractor) had submitted the master roll regarding payment of wages to the workers to the tune of Rs. 9,940/-. He submits that all these events took place before the petitioner had joined as Block Development Officer of the said block.

10. After the petitioner joined as Block Development Officer on 18.5.1987, through letter dated 18.9.197, he communicated all these facts to the concerned Sub Divisional Officer and also sought for the administrative sanction. The Sub Divisional Officer concerned granted administrative sanction on 26.9.1987 accordingly, for the work in question. After having

received the administrative sanction, the petitioner paid a sum of Rs. 30,000/- and odd to the Contractor being the balance amount, adjusting the advance of Rs. 10,000/- which was already paid to him. The petitioner was thereafter, transferred to another place on 28.4.1988.

11. Learned counsel for the petitioner has submitted that the sole reason behind initiation of departmental proceeding against the petitioner is that he had issued letter dated 18.9.1987 seeking administrative sanction from the Sub Divisional Officer for the earth work to be done on the land, title of which was in dispute inasmuch as, one Mansu Mandal had claimed ownership over the said land. He has contended that in the said letter dated 18.9.1987, the petitioner had specifically mentioned that the dispute, if any, was already resolved. He has further submitted that simple claim raised by Mansu Mandal asserting his ownership over the land in question will not amount to existence of legal dispute with respect to title over the land. He has further submitted that there was no legal evidence, rather no evidence before the Inquiry Officer on the basis of which he could come to the conclusion that the payments were



made to the Contractor, though there was no work done over the land in question. He has submitted that even the technical sanction was obtained by the Assistant Engineer prior to the date when the petitioner had joined the place of posting. He has submitted that his communication dated 18.9.1987 was not produced in course of the departmental enquiry which was the crucial document to reach to a particular conclusion as that was the basis for initiation of departmental proceeding against the petitioner. He has accordingly, submitted that the report of the Inquiry Officer, holding the petitioner guilty of the charges is perverse and without any admissible evidence.

12. Learned counsel appearing on behalf of the Respondents State of Bihar, on the other hand , has vehemently opposed the relief sought for in the writ application and has contended that the petitioner was given full opportunity of hearing in course of the departmental enquiry. All the documents, which have been relied upon by the Inquiry Officer, were supplied to the petitioner or were produced for perusal by the petitioner, so that he could develop his defence against



charge. He has submitted, referring to the report of the Inquiry Officer, that the findings are based on materials which were relevant for the purpose of the charge and the findings cannot be said to be without material or evidence or based on such materials which were not relevant for the charge.

13. After having gone through the rival pleadings and having considered the rival submissions on behalf of the parties, I find that the letter dated 18.9.1987 written by the petitioner to the Sub-Divisional Officer, Araria through which he sought administrative sanction with respect to the work in question is the foundation of the charges levelled against him. It is alleged against him that he concealed certain relevant facts and obtained administrative sanction from the Sub-Divisional Officer by concealing such facts, knowing well that by an earlier order, the work was directed to be stopped and there was dispute over the title with respect to the land on which the pond was being constructed. On the other hand, it has been contended on behalf of the petitioner that he had narrated all those facts in his said letter dated 18.9.1987 and had also stated that



there was no actual dispute regarding title over the land. The said letter dated 18.9.1987 admittedly does not form part of the departmental enquiry as it is said that the original records were missing. In any view of the matter, from the findings of the Inquiry Officer, it appears that there is no discussion as regards the contents of the said letter dated 18.9.1987. The Inquiry Officer, in his report come to a finding that the main reason for obtaining administrative sanction from the Sub Divisional Officer was not the execution of work rather it was for ensuring payment to the Contractor. The findings recorded by the Inquiry Officer dealing with the concerned charge no.1 on the face of it, appear to be without any evidence and based upon his own imagination, conjectures and surmises.

14. I am of the view that no evidence was available before the Inquiry Officer to come to a conclusion that the petitioner was guilty of charges levelled against him. There was no witness to prove the allegation and the contents of the documents upon which the Inquiry officer came to a finding that the petitioner was guilty of the charges.

15. Accordingly, the impugned order dated 24.3.1998 (Annexure-1) is quashed. The petitioner will be entitled for all consequential benefits upon quashing of the said order dated 24.3.1998, if he makes a representation before the concerned authority within a period of one month from today.

16. This application is accordingly, allowed. No order as to costs.

(Chakradhari Sharan Singh, J)

ArunKumar/-

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