

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8964 of 2001

Kashi Nath Mishra, son of late Surya Kant Mishra, resident of Village Silauth, P.S. Samastipur Muffasil, Dist. Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Food and Civil Supplies Corporation, Patna through its Managing Director.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
4. The District Manager, State Food Corporation, Samastipur.
5. The District Manager, State Food Corporation, Begusarai.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 5831 of 2005

Kashi Nath Mishra, S/o late Surya Kant Mishra, resident of Village Silaut, P.S. Muffasil Samastipur, Dist. Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Bihar State Food and Civil Supplies Corporation through Managing Director, B.S.F.C., Patna.
3. The Managing Director, Bihar State Food and Civil Supplies Corporation, Patna.
4. The Administrative-in-Chief, Bihar State Food and Civil Supplies Corporation, Patna.
5. The District Manager, State Food Corporation, Samastipur.
6. The District Manager, State Food Corporation, Darbhanga.

.... Respondent/s

Appearance :

(In CWJC No. 8964 of 2001)

For the Petitioner/s : None

For the Respondent/s : Mr. K.P. Yadav, SC-5

(In CWJC No. 5831 of 2005)

For the Petitioner/s : None

For the Respondent/s : Mr. S. Alamdar Hussain, SC-6

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 10-08-2015

No one appears for the petitioners.

2. The prayer of the petitioners in this writ application reads as follows:-

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- “1(i) For quashing the order dated 16.5.2001 passed by the Respondent No.3 by which, he dismissed the petitioner from service and order for recovery of Rs. 93,707.86 and price of 84Q. of wheat.*
- (ii) For direction to the Respondent No.3 to give consequential benefit after quashing of the dismissal order.*
- (iii) For direction to the Respondent No.3 for payment of salary from September 98 to 15th May 2001.”*

3. As would be apparent from reading of the records of the writ application, the impugned order of punishment has been passed against the petitioner dismissing him from service as also recovery of a sum of Rs. 93,707.86/- in a departmental proceeding. From the records and particularly the supplementary affidavit filed by the respondents, it is also clear that not only a regular departmental proceeding was initiated against the petitioner but, the enquiry officer had also found the charges against the petitioner to be proved. Thereafter, the petitioner was given copy of the enquiry report and was asked to file show-cause reply to the findings given in the enquiry report. The petitioner had also filed a show-cause reply whereafter the impugned order of punishment had been passed.

4. This Court does not find any procedural infirmity in the impugned order of punishment keeping in view that the petitioner



was custodian of the store of grains of the Bihar State Food and Civil Supplies Corporation and when threat was found of the food grains which also stood proved in course of departmental proceeding, the order of punishment, either by way of dismissal from service or the recovery of the amount, cannot be said to be bad. As a matter of fact, this Court on 17.7.2001 had passed an interim order directing the petitioner to pay a sum of Rs. 3,000/- per month as with regard to the aforesaid recovery. Such recovery thus having been not stayed, this Court now would find no reason to interfere with the order of recovery in any manner specially when the same was not found to be bad on account of any infirmity in course of departmental proceeding.

5. Let it be noted that the petitioner had also filed another writ application, CWJC No. 5831 of 2005 which was directed by this Court to be heard along with this writ application by order dated 1.5.2007. The prayer of the petitioner in this writ application is for quashing of the order dated 8.7.2003 which is in relation to a separate misconduct wherein a finding has been recorded that the petitioner had misappropriated a sum of Rs. 6,70,527.70/-. Such order of the authority, having been passed after the impugned order of dismissal after conducting a departmental proceeding, also cannot be interfered by this Court specially when there is nothing to show that when the petitioner was given opportunity to participate in the

departmental proceeding, he refused to participate in such proceeding.

From the counter affidavit filed in this case, it is very clear that the enquiry officer in the separate departmental proceeding had found the charge of the petitioner to be proved. Thus, in absence of any infirmity in the second departmental proceeding also, the impugned order of recovery of amount has to be upheld.

6. In the result, both the writ applications fail and are, accordingly, dismissed.

(Mihir Kumar Jha, J)

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