

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13864 of 2006

=====

Giridhari Lal son of Late Mangal Das, District Sub Registrar, Bhojpur, Ara
(of Mohalla Barkat Khan Ka Akhara, P.S.Khajekalan, Patna City, District
Patna) Petitioner/s

Versus

1. The State of Bihar through Commissioner and Secretary, Government of Bihar, Department of Registration, Vikas Bhawan, New Secretariat, Patna
 2. The Secretary-cum-Inspector General of Registration, Department of Registration, Government of Bihar, Vikas Bhawan, New Secretariat, Patna
 3. The District Officer, Rohtas, Sasaram, Rohtas
 4. The Collector-cum-District Magistrate, Rohtas, Sasaram
 5. The Additional District Magistrate, Law and Order, Rohtas, Sasaram
 6. The Inspector of Registration Offices, Patna Division, Patna
 7. The Assistant Inspector General of Registration, Government of Bihar, Vikas Bhawan, New Secretariat, Patna
 8. The Inspector of Registration Offices, Trihut Division, Muzaffarpur
 9. The Inspector of Registration Offices, Patna Division, Patna
 10. The Treasury Officer, Bhojpur, Ara
 11. The Accountant General, Bihar, Patna Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Naresh Chandra Verma, Advocate
Mr. Rameshwar Pandey, Advocate
For the Respondent Nos. 1 to 10 : Mr. Neeraj Raj, AC to SC 19
For the Respondent no.11 : Mr.LPK Rajgrihar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 12-01-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the notification dated 25th January, 2005 (Annexure-1) issued under the signature of the respondent no.2 whereby the petitioner has been visited with an order of punishment of stoppage of five annual increments with cumulative effect and an order of recovery of Rs.1,39,647.00 and further it has been held that he shall not be paid anything else except the subsistence allowance during the period of suspension. He is also aggrieved by the impugned order/communication dated 12th

December, 2005 (Annexure-10) issued under the signature of Commissioner and Secretary, Department of Registration, Bihar, Patna, whereby the statutory appeal filed on behalf of the petitioner against the original order of punishment as contained in Annexure-1 has been dismissed.

3. Learned counsel appearing on behalf of the petitioner submits that the impugned order of punishment as contained in Annexure-1 is contrary to the materials produced by the petitioner. According to him, while submitting the second show cause, the petitioner had raised various points regarding enquiry report as also finding recorded therein, but without considering those points, the order of punishment was passed against the petitioner by the disciplinary authority. It is further submitted that the petitioner, being aggrieved by the original order of punishment as contained in Annexure-1, preferred an statutory appeal raising various points with respect to validity and correctness of the order of punishment, but the appeal preferred by the petitioner has been rejected mechanically by a completely non-speaking order as contained in Annexure-10. Therefore, according to him, the impugned orders as contained in Annexures- 1 and 10 are liable to be set aside by this Court.

4. Learned AC to SC 19, appearing on behalf of the State of Bihar and its functionaries, has opposed the prayer made on behalf of the petitioner and has tried to support the impugned original order as also the appellate order. According to him, by recording good reasons order of punishment (Annexure-1) has been passed against the petitioner. However, he has fairly conceded that the appellate order is non-speaking one and the reason for rejection of the appeal filed by the petitioner has not been recorded therein.

5. After having heard the parties and on consideration of the materials available on record, this Court is of the opinion that the matter requires reconsideration and a fresh decision, at the first instance, by the appellate authority. The various points raised on behalf of the petitioner with respect to correctness and validity of the order of punishment were required to be gone into by the appellate authority and only after recording its finding with respect to the points raised on behalf the petitioner, the appeal preferred by the petitioner could have been disposed of. Apparently, that has not been done in the present case. The appellate order as contained in Annexure-10, as it stands today, cannot be sustained in law.

6. For the reasons recorded above, the impugned appellate order/communication dated 12th December, 2005 as contained in Annexure-10 is hereby set aside and quashed. The matter is remitted back to the appellate authority for deciding the appeal of the petitioner afresh by a reasoned and speaking order. The petitioner shall be at liberty to raise all the points, which are available to him, before the appellate authority with respect to the order of punishment passed against him as contained in Annexure-1. If the petitioner makes a request for his personal hearing, then the appellate authority shall consider the same sympathetically and shall pass appropriate order and only thereafter, the matter shall be finally disposed of in accordance with law.

7. The writ petition stands allowed to the extent indicated above, but there shall be no order as to costs.

(Birendra Prasad Verma, J)

Tahir/-

U			
---	--	--	--