

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.332 of 2012

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1. The Union of India through the Post Master General, Northern Region Muzaffarpur, P.S. + District-Muzaffarpur Town Pin Code-842002.
 2. The Director General-cum-Secretary, Department of Post, Dak Bungalow, New Delhi.
 3. The Chief Post Master General, Bihar Circle, Patna.
 4. The Director of Post Service through Region Muzaffarpur.
 5. The Superintendent of Post Office, West Champaran Division, Bettiah.

.... Petitioners.

Versus

Bijay Mohan Mishra, S/O Late Sawalia Mishra, resident of Mohalla-I.T.I. Colony, Bettiah, at present working as Postal Assistant at Office of the Superintendent of Post Office, Bettiah Division, Bettiah.

.... Respondent.

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Appearance :

For the Petitioners : Mr. Rajesh Kumar Verma, C.G.C.

For the Respondent : Mr. Hemant Kumar Karn, Adv.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 24-07-2015

The present writ application has been filed by the Department of Post, being aggrieved by the order of the Central Administrative Tribunal, Patna Bench, Patna (hereinafter in short referred to as the 'Tribunal'), by which Tribunal has set aside the order of the appellate authority in the disciplinary proceedings, whereby the punishment as awarded to the contesting respondent, an employee of the post office, was drastically enhanced. The Tribunal held that the punishment had already been provided for by the disciplinary authority and Rs.45,000.00 was imposed as cost recoverable. The appellate authority, apart

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from noting that there was a grave misconduct, nothing more was said and the charge realizable was enhanced to Rs.3,30,000.00, which was held to be grossly disproportionate and, accordingly, the Tribunal set it aside.

Having heard learned counsel for the Department and learned counsel for the employee, we agree with the Tribunal. The first thing that was required to be shown as to what negligence of the employee lead to loss and second was the extent of loss. Here, it is not in dispute that the employee was a mere Assistant. There were several other people involved i.e. the postal agent, the Deputy Postmaster and the people at the other post office to whom K.V.P. is allegedly issued. All that is said is that the employee failed to note in the dispatch register promptly the dispatch of payment advice. It is thereafter speculative that had the dispatch advice been correctly noted, it would have reached the other post-office in time and a report would have come, thus, stopping the second payment. This is only speculative. In fact, we find that dispatch was made and a report did come. The report clearly admitted issuance of K.V.P. from the other post-office. It is a different matter. Later further investigation revealed that even this report was fraudulently sent by some person in the other post-office. Thus, to virtually blame

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the delinquent employee and to enhance the punishment is not justified.

We are, therefore, not inclined to interfere with the order of the Tribunal as also with the order of the appellate authority whereby a fine of Rs.45,000.00 was imposed.

Accordingly, the writ application is dismissed.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

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