

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3474 of 1999

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Parma Nand Kumar Sinha, son of Shri Sidheshwar Prasad resident of village Bazar Tali PO Kalpa, P.S. & District-Jehanabad at present posted as Assistant in the Office of Project Executive Officer, Dinara Block, District-Rohtas (Sasaram)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Agriculture, Government of Bihar, Patna
3. The Joint Director, Agriculture, Patna Division, Patna
4. Subdivisional Agriculture Officer, (General), Buxar
5. Sri Sanat Kumar Jaipuriar, Leave Reserve Officer in Pramandaliya Krishi Karyalaya, Patna-cum-Enquiry Conducting Officer.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Prasad Singh

For the Respondent/s : Mr. Ranjan Kumar, AC to AAG-IV

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 03-04-2015

1. By the order impugned dated 12.6.1998 passed by the Joint Director, Agriculture, Patna Division, Patna (Annexure-1) following punishments have been imposed :-

- “i) Recovery of a sum of Rs. 87,318/- with interest from the date of the order which is said to have illegally received by the petitioner on the basis of forged documents.
- ii) Censure.
- iii) Withholding of four annual increments with cumulative effect.
- iv) No assignment of any responsibility and charge with respect to cash to be given to the petitioner in future.
- v) The petitioner will not be entitled for any amount over and above the subsistence

allowance which he received during the period he remained under suspension.”

2. The challenge to the impugned order is on the ground that the report of the Inquiry Officer finding the charge against the petitioner to have been proved was not supplied to him before the disciplinary authority took the decision on the basis of the enquiry report and imposed the punishment by the impugned order dated 12.6.1998. It is accordingly, the petitioner's plea that non-supply of enquiry report before imposing punishment amounts to violation of principles of natural justice.

3. This is not in dispute that after the petitioner was served with the charge-sheet, he had filed his written statement of defence claiming his innocence. He had denied the charges and had demanded certain documents for the purpose of preparing his defence in the departmental enquiry. It is his contention that though such documents were relevant, they were not supplied to them. This is also not in dispute that the departmental proceeding was held ex-parte by the Inquiry Officer since the petitioner did not appear before him and kept

on demanding the documents which he had demanded for the purpose of preparing his defence.

4. The enquiry report has been brought on record by way of Annexure-D/3 to the counter affidavit filed on behalf of the respondent State of Bihar.

5. Learned counsel appearing on behalf of the petitioner has submitted that there is specific averment in the writ application that copy of the enquiry report was not supplied to him which fact has not been specifically denied in the counter affidavit. He, accordingly, contends that the action taken against the petitioner impugned in the present writ application is in violation of principles of natural justice.

6. Learned counsel appearing on behalf of the respondent State of Bihar, on the other hand, has submitted that the petitioner cannot take the plea of violation of principle of natural justice as he had not cooperated and participated in course of the departmental enquiry. He has contended that despite the fact that the petitioner was given sufficient opportunity to appear before the enquiry Officer and explain his position, he failed to do so and, therefore, decision of the

respondents cannot be said to be violative of principle of natural justice. He has referred to paragraph 19 of the counter affidavit and has submitted that the petitioner's plea that report of the Inquiry Officer was not supplied to him, has not been denied.

7. Learned counsel for the Respondents has also submitted that there is no pleading in the writ application that non-supply of the said enquiry report to the petitioner prejudiced his case in any manner and, therefore, merely on the basis that the report of the Inquiry Officer was not supplied, this Court may not interfere with the final decision of the disciplinary authority. He has contended that prejudice should not only be pleaded in the writ application but must be proved by the petitioner which might have been caused to him because of non-supply of enquiry report. The said enquiry report which has been brought on record by way of Annexure to the counter affidavit depicts the manner in which the enquiry was conducted. It seems that there was no enquiry at all inasmuch as, there was none to prove the charge before the enquiry Officer. No witness was examined. The findings of the Inquiry



Officer are based on the charge framed against the petitioner and explanation submitted by him in his written statement of defence. It is evident from the enquiry report that the Inquiry Officer has just dealt with the explanation submitted by the petitioner in his written statement of defence and disagreeing with such explanation has come to the conclusion that the charge against petitioner stood proved.

8. I am of the opinion, upon going through the report of the Inquiry Officer that findings are based on no evidence and such findings are therefore, perverse. The Inquiry Officer has first come to the conclusion that a particular charge was proved and thereafter, he has discussed how the charge could be said to be proved. He, in his enquiry report has referred to certain documents for arriving at a conclusion that the charge against the petitioner stood proved, but has not referred in his enquiry report as to how those documents were taken in evidence in course of the departmental enquiry.

9. I am, therefore, of the opinion that the decision of the disciplinary authority imposing punishments against the petitioner as noted above, on the basis of the findings of the

Inquiry Officer which are apparently perverse and cannot be sustained. The impugned order dated 12.6.1998 as contained in Annexure-1 to the writ application is quashed.

10. This application is allowed.

11. It will be open to the Department, however, to proceed against the petitioner afresh from the stage of submission of written statement of defence. If they decide to do so, such action must be initiated within one month from today and must be concluded within six months thereafter.

12. This application is allowed accordingly.

(Chakradhari Sharan Singh, J)

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