

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11294 of 1999

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Azizul Haque, Son of Shri Shamshul Haque, resident of Rajopatti, P.S. Dumra,
Sitamarhi

.... Petitioner/s

Versus

1. The Bihar State Financial Corporation, through its Managing Director, Fraser Road, Patna
2. The Board of Directors of the Bihar State Financial Corporation, though its Chairman, Fraser Road, Patna
3. Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
4. Ashok Kumar Singh, son of not known, the then Managing Director, Bihar State Financial Corporation, Fraser Road, Patna
5. Ashok Kumar, son of name not known, Asstt. General Manager/Conducting Officer, Bihar State Financial Corporation, Fraser Road, Patna.
6. K. K. Verma, the then Manager (Administration), Bihar State Financial Corporation, Fraser Road, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manik Vedsen &
Mr. Subhash Chandra Bose

For the Respondent/s : Mr. J.P.SHUKLA
Mr. Rajesh Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 05-05-2015

1. This is an application seeking quashing of an order dated 06.10.1997, whereby, the Managing Director of Bihar State Financial Corporation, Patna has imposed upon the petitioner a punishment of fine of Rs. 10,000/- which was to be recovered from his salary in monthly installment of Rs. 500/-. The said order is based on the report of the Inquiry Officer which has been brought on record by way of Annexure-8 to the writ application.

2. Following was the charge levelled against the petitioner

for which a departmental proceeding was initiated against him:-

“Sri Azijul Haque, Peon presently posted on Guard duty in M/s Daffodils Tannery Pvt. Ltd., Araria under jurisdiction of Purnea Branch Office of Bihar State Financial Corporation is hereby charged with grave mis-conduct, negligence of duties and acting in a manner detrimental to the interest of the Corporation in discharge of his duties as a peon within the meaning of Regulation 39(i) of BSFC (Staff) Regulation, 1965 in that :-

1. He was posted on guard duty to safeguard the mortgaged assets of taken-over unit, M/s Daffodils Tannery Pvt. Ltd., Araria vide B.O. letter no. PUR/471/94-95 dated 5.9.1994. He was found absent from his duties from 17.7.1995 to 21.7.1995 without any information to the concerned Branch office as per report dated 10.6.1996 of Branch Manager (Area Incharge) visited the site of aforesaid unit on 18.7.1996 and found him absent from duty. On his local enquiry also, it was gathered that Sri Haque had not been seen after 16.7.1995 and the site of aforesaid unit was lying un-guarded.
2. The Branch Manager, B.S.F.C., Purnea vide his letter no. 209/95 dated 18.7.95 asked an explanation from Sri Haque about his unauthorized absence from duty. His reply dated 28.7.1995 that he stayed in the house of a local person during his treatment is false and fabricated.
3. Sri J.P. Sinha, Dy. Manager (Area (Incharge) issued a letter vide ref. No. 237/95 dated 2.8.95 asking Sri Haque to mention the specific name of the local person at whose house he stayed during his treatment at Araria. He submitted his reply vide his letter dated 2.8.95 wherein he mentioned that he stayed with Md. Irshad, a betel shop-keeper at Araria Court. But it has not been found that he stayed with Md. Irshad for a day only on 16.7.95 and he (Md. Irshad) did not know the whereabouts of Sri A. Haque thereafter.

This Sri Haque made a false statement before the Branch Manager, Purnea which is also corroborated from prescription of consulting doctor submitted by him as the doctor had not advised him bed rest.

4. He absented himself from duty without seeking permission from the competent authority and submitted a false and fabricated statement to justify his unauthorized absence which is a grave act of indiscipline and negligence of duty.

Hence Sri Azijul Haque, Peon, under departmental proceeding, BSFC, Purnea Branch is directed to show cause before the Conducting Officer, Sri Ashok Kumar, A.G.M.H.O. Patna as to why necessary disciplinary action under regulation 39(i) of BSFC (Staff) Regulation 1965 be not taken against him for the aforesaid charges with suitable punishment. He is further directed to submit his show cause to the conducting Officer within three weeks from the date of service of charges.”

3. Learned counsel for the petitioner appears to be right in his submission referring to the report of the Inquiry Officer that though full-fledged enquiry is said to have been contemplated, there was absolutely no witnesses before the Inquiry Officer to prove the charge. He has submitted that the Inquiry Officer acted as a Prosecutor to come to the conclusion that the charge against the petitioner stood proved.

4. The petitioner had preferred an appeal against the order passed by the disciplinary authority. Upon appeal, the appellate authority reduced the amount of fine of Rs. 10,000/- to Rs. 6,000/-.

5. In final form the records and the pleadings that the entire

departmental proceeding was conducted undue haste. No witness was examined to prove the charge, though full fledged enquiry was contemplated. The report of the Inquiry Officer is perfunctory, which the basis of the order passed by the Disciplinary authority as also the Appellant Authority. The orders imposing punishment on the petitioner, including the order of the appellate authority dated 10.04.2000 (Annexure-13 of amendment petition) cannot be sustained and are accordingly set aside.

6. This writ application is allowed.

7. There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

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