

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18472 of 2008

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Rajdeo Sharma son of late Prashidh Narain Singh, resident of Mohalla Nutan Nagar

Tetaria House, P.O. G.P.O., P.S. Civil Lines, Town and District Gaya.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.

2. The Prime Secretary, Personnel and Administrative Reforms Department,
Government of Bihar, Patna.

3. The Prime Secretary, OBC (Welfare) Department, Government of Bihar, Patna.

4. The Prime Secretary-cum-Commissioner, Finance Department, Government of Bihar,
Patna.

5. The Deputy Finance Commissioner (Expense), Government of Bihar, Patna.

6. The Deputy Secretary, Personnel and Administrative Reforms Department,
Government of Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s :

For the Respondent/s :

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 13-08-2015

Nobody appears on behalf of the petitioner. Learned

G.A. 8 for the State is present.

Pursuant to orders dated 05.08.2015 and 12.08.2015, the

respondent no. 6 has filed 2nd supplementary counter affidavit as well as 3rd supplementary counter affidavit on his own behalf as well as on behalf of the respondent no. 2. He is also present in Court.

In the 2nd supplementary counter affidavit filed on 12.08.2015 (affirmed on 11.08.2015), statement was made that in light of Rule 139 (b) of the Bihar Pension Rules (hereinafter referred to as the 'Rules'), 10 per cent pension of the petitioner had been withheld. As no copy of the order was enclosed along with the counter affidavit, this Court had called upon the learned State Counsel and the respondent no. 6 to give details with regard to there being an order under Rule 139 (b) of the Rules. Today, at the very outset, learned G.A. 8 has submitted that the said fact was wrongly stated in the 2nd supplementary counter affidavit for which unconditional and unqualified apology has been tendered. Before the Court, it has been stated that the deponent in good faith had filed the 2nd supplementary counter affidavit based on the statement of facts prepared by the office and also vetted by a senior officer and thus without there being any reason for him to check about the veracity of the statements made on facts, with *bona fide* intention, the said affidavit was affirmed and filed. It is submitted that as soon as the mistake was realized, appropriate action has also been taken against one Under Secretary, one Section Officer and one Assistant. Besides starting departmental

proceeding against them, the concerned Section Officer and the Assistant have also been placed under suspension.

In view of the unconditional and unqualified apology tendered by the respondent no. 6 and also prompt and strict action taken against the concerned, the Court is persuaded to take a lenient view in the matter in spite the fact that a patently false statement has been made and stood proved in the present judicial proceeding.

As per the stand of the respondents, the petitioner, being accused in the fodder scam, has since been convicted in CBI Case No. RC 34 (A) / 96-Pat and sentenced to undergo rigorous imprisonment for three years under Section 13((1) (d)(2) of the Prevention of Corruption Act, 1988 and fine of Rs. 2,75,000/- and further to three years rigorous imprisonment under Section 420 of the Indian Penal Code and fine of Rs. 10,000/- and in case of default in payment of fine to undergo further simple imprisonment for six months.

It is thus submitted that in view of the petitioner having been convicted, clearly his service is not satisfactory and thus the Department has now initiated action against him under Rule 139 (b) of the Rules for which notice is being issued and appropriate final order shall be passed in accordance with law, after completing the formalities including the petitioner being show caused, within three months.

In view of the aforesaid and the fact that nobody had appeared on behalf of the petitioner on 05.08.2015 and 12.08.2015 also, the application stands disposed off.

The Court expects that the proceedings against the three persons would be taken to their logical conclusion in the right spirit without being influenced by the fact that the writ petition has finally been disposed off and the authority shall not leave any doubt in the mind of the Court that the present action was only by way of a formality to soften the Court not to take action against the concerned officer.

(Ahsanuddin Amanullah, J)

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