

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16074 of 2007

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Niranjan Kumar Ghosh, s/o Late Kamini Mohan Ghosh, presently residing at Maya Sadan, Adarsh Colony, West Patel Nagar, P.S. Shastri Nagar, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Member, Board of Revenue, State of Bihar, Patna
3. Secretary-cum-Commissioner, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
4. Deputy Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinay Raj

For the Respondent/s : AC to Principal Additional Advocate General

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 23-06-2015

Heard Sri Abhinay Raj, learned counsel for the petitioner and learned AC to Principal Additional Advocate General.

The petitioner, invoking writ jurisdiction of this court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 9th October, 2006, passed by the disciplinary authority, whereby in a departmental proceeding punishment of stoppage of one increment with cumulative effect has been passed and it has further been indicated that in respect of claim of period of suspension same shall be decided after disposal of the criminal case, which is pending against the petitioner. The petitioner has further prayed for quashing of order dated 30.5.2007 passed in Service Appeal No.1 of 2007 by the Member, Board of Revenue, Bihar whereby appeal preferred by

the petitioner against the order passed by the disciplinary authority has been dismissed.

Learned counsel for the petitioner tried to persuade the court that punishment imposed against the petitioner is disproportionate to the charges levelled against the petitioner. He further submits that in the departmental proceeding the conducting officer had exonerated the petitioner, however, the disciplinary authority, differing with the order of the enquiry officer has passed the order of punishment. Learned counsel for the petitioner tried to persuade the court that only on the ground that the petitioner had not taken sincere efforts in the matter, he was proceeded and on this ground, he submits that the order of punishment is liable to be set aside.

Besides hearing, I have also perused the materials available on record including the impugned orders. On perusal of the order of the disciplinary authority it is evident that the procedures in respect of departmental proceeding was adopted in its letter and spirit. It is true that petitioner was exonerated by the enquiry officer, however, the disciplinary authority has not agreed with the enquiry report and before passing impugned order, besides providing enquiry report to the petitioner, show cause was sought for regarding difference of opinion, which was submitted by the petitioner. Since the show cause

reply given by the petitioner was not satisfactory, the disciplinary authority assigning reasons for differing with the enquiry report, has passed the order of punishment, which has already been affirmed by the appellate authority. The court is conscious about the fact that while exercising the power of judicial review, this court may not examine the merit of the case. Only in a case where defect has occurred in decision taking process this court may interfere, and as such, the court is satisfied that no error has been committed in the departmental proceeding. It is evident that petitioner is also facing criminal trial in a Vigilance case along with other accused persons.

I do not find any ground for interfering with the matter.

The writ petition stands dismissed.

After the order was recorded, learned counsel for the petitioner made a prayer for recording an observation that after the disposal of the criminal case the petitioner may take appropriate steps in view of the order of the disciplinary authority, which indicates that the claim of suspension period shall be considered after disposal of the criminal case. Accordingly, there is no need to indicate any observation on this issue.

(Rakesh Kumar, J)

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