

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5948 of 1998

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Srimati Deepa Prasad wife of Shri H.K. Lal, at present residing at Mohalla and P.S. Kadamm Kuan, Patna town, District Patna, working as Manager in the Head Office of Bihar State Financial Corporation having its office at Frazer Road, P.S. Gandhi Maidan, Patna Town, District-Patna.

.... Petitioner

Versus

1. Bihar State .Financial Corporation, through its Managing Director, having its office at Frazer Road, P.S. Gandhi Maidan, Patna Town, District Patna.
2. Board of Directors of Bihar State Financial Corporation, through its Chairman, having its office at Frazer Road, P.S. Gandhi Maidan, Patna town, District Patna.
3. The Managing Director, Bihar State .Financial Corporation, having its office at Frazer Road, P.S. Gandhi Maidan, District-Patna
4. Mr. Ashok Kumar Singh, I.A.S., at present working as Managing Director of Bihar State .Financial Corporation, having its office at Frazer Road, P.S. Gandhi Maidan, District-Patna.
5. Mr. S.K. Mishra, I.A.S., at present working as Collector, Siwan, P.S. and District Siwan (the then Officer of Special Duty in the Vigilance and Grievance Cell of Bihar State Financial Corporation, Patna-cum-Enquiry Officer)

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Anis Akhtar

For the Respondent/s : Mr. Raju Giri

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date: 11-02-2015

1. This application has been filed seeking following reliefs:-

- I. "For quashing of the order of punishment passed by the Managing Director, as contained in memo No. 742 dated 27.01.1995, whereby and whereunder the petitioner had been inflicted three punishments in a departmental proceeding namely (a) Recovery of Rs. 2, 62, 000/-, (b) Stoppage of three annual increments with cumulative effect, and (c) Withholding of promotion for four years.
- II. For also quashing the appellate order passed by the Board of Directors of Bihar State Financial

Corporation dated 11.06.97, whereby and whereunder the aforesaid order of punishment passed by the Managing Director has been up held with only modification that out of the aforesaid three punishments (a) and (c) have been confirmed but the punishment of stoppage of three annual increments has been set aside.”

2. Out of three punishments imposed upon the petitioner, by the order passed by the Disciplinary Authority, i.e. Managing Director, Bihar State Financial Corporation, Patna, apparently, the punishment of stoppage of three annual increments was dropped by the Appellate Authority in terms of the order dated 11.06.1997. The other punishment, for withholding promotion for a period of four years has become meaningless as learned counsel for the appellant informs this Court that the petitioner retired after attaining the age of superannuation with effect from 30.04.2006. Thus, there remains the only punishment imposed by the Disciplinary Authority of recovery of Rs. 2, 62, 000. (rupees two lakh sixty two thousand only) in equal monthly installments of Rs. 2, 500/- from salary of the petitioner, to be considered in the present writ application.

3. Learned counsel for the petitioner further informs that from the date of imposition of punishment by the Disciplinary Authority till the date of grant of stay by this Court vide order date 30.06.1999, a sum of Rs. 1, 32, 500/- has already been recovered from the

petitioner's salary and now, since the petitioner has already retired with effect from 30.04.2006 and no recovery can be made in terms of the order of punishment, since the amount was required to be recovered from her salary.

4. Learned counsel for the petitioner has submitted, referring to the impugned order of the Disciplinary Authority that it is non-speaking and deserves to be set aside on the sole ground. He has submitted that even while agreeing with the report of the Enquiry Officer, the Disciplinary Authority is required to apply his mind on the findings of the Enquiry Officer and such application of mind should be reflected in the order imposing punishment. He has, therefore, submitted that the impugned order dated 27.01.1995 passed by the Disciplinary Authority as well as the order dated 11.06.1997 passed by the Appellate Authority, be set aside in the facts and circumstances of the case. Learned counsel appearing on behalf of the Corporation on the other hand has opposed the writ petition and has contended that the Disciplinary Authority and the Appellate Authority took a lenient view while imposing punishment upon the petitioner, which does not require any interference in a proceeding under Article 226 of the Constitution of India. He further submits that keeping in view the nature of the punishment imposed and the fact that the report of the Enquiry Officer was detailed one, the order of the Disciplinary

Authority on the Appellate Authority cannot be said to be non-speaking.

5. I find substance in submission made on behalf of the petitioner that the order of the Disciplinary Authority even while agreeing with the report of the Enquiry Officer must show at least some application of mind, which is absent in the order under challenge. However, I am of the opinion that much prejudice cannot be said to have been caused to the petitioner because of absence of reasons in the impugned order, in the facts and circumstances of the case. In normal course, I would have remanded the matter back to the Disciplinary Authority after quashing the orders of the Disciplinary Authority and the Appellate Authority for passing appropriate order assigning reasons however, since the matter has remained pending for nearly two decades, I consider it appropriate to modify the order of punishment of recovery of Rs. 2, 62, 000/- to recovery of only such amount which has already been recovered from the petitioner's salary.

6. This application is partly allowed.

(Chakradhari Sharan Singh, J.)

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