

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18285 of 2008

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Yogendra Prasad Bhakta, son of Chhatradhari Bhagat, resident of village –
Haribella, P S – Bathnaha, District - Sitamarhi

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
 2. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
 3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
 4. The Collector, Sitamarhi.
 5. The Circle Officer, Belsand, Sitamarhi.
 6. The Circle Officer, Parihar, Sitamarhi.
 7. The Circle Officer, Sursand, Sitamarhi.
 8. The Circle Officer, Bathnaha, Sitamarhi
 9. The Circle Officer, Mejorganj, Sitamarhi.
 10. The Executive Magistrate, Sitamarhi.
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Appearance :

For the Petitioner/s : Mr. ASHOK KUMAR MISHRA 2

For the Respondent/s: Mr. Ajay Kumar Sharma, AC to PAAG

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 02-07-2015

Annexure-5 is the charge drawn up against the petitioner, which amounts to not only dereliction of duty but also refusal to obey the seniors. After due enquiry finding of guilt was reached. Two punishments were awarded by the Collector, Sitamarhi, on 18th April, 2006, which is Annexure-8. The punishments are withholding of two increments with cumulative effect and non-payment of salary for the period of suspension.

The punishment order of the disciplinary authority was affirmed after due detailed consideration by the Divisional

Commissioner, Tirhut Division, Muzaffarpur.

In view of the over-bearing findings against the petitioner and his culpability, the Court opines that minimum of punishment which could be awarded has been awarded against the petitioner.

However, counsel for the petitioner is correct that no notice or procedure was adopted in terms of Rule 97(3) of the Bihar Service Code before imposition of punishment for non-payment of salary except subsistence allowance for the period of suspension.

Since there is no rebuttal on that aspect of the matter, the second punishment stands quashed.

Since the petitioner has already retired, therefore, the matter is not being remanded back.

Writ application is allowed to the extent that the petitioner would be entitled to payment of salary for the period of suspension minus subsistence allowance.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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