IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3600 of 2015

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Ram Akbal Rai son of Sri Rupan Yadav resident of village- Kalopur, P.O.- Tujarpur at present Khudaibagh, P.S.- Khaira, District- Saran

.... Petitioner

Versus

1. The Principal Secretary, Registration, Excise and Prohibition Department, Government of Bihar, Patna
2. Chairman-cum-Member, Board of Revenue, Bihar, Patna
3. The Commissioner, Department of Excise, Government of Bihar, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Adv.
: Mr. Samvi Kumar, Adv.
: Mr. Sanket Sinha, Adv.
For the Respondent/s : Mr.Prabhunath Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 18-05-2015

Petitioner is an Assistant Sub-Inspector posted in the Department of Excise, Government of Bihar. He was posted in the office of Superintendent of Excise, Jamui at the relevant time. A departmental review was held at the level of the Excise Commissioner, Government of Bihar where the Commissioner found shortfall in the revenue collection under various heads. This led to issuance of a show cause upon the petitioner. Petitioner offered his explanation in terms of Annexure-3 and also provided the facts and figures to rebut the shortfall in revenue collection or any omission on his part not to meet the target. The Commissioner was not satisfied with the explanation offered by the petitioner and decided to impose punishment of withholding one increment without cumulative effect. The said order is Annexure-4 dated 03.02.2014. Petitioner wants not only quashing of this order but also the order passed by the Member, Board of Revenue contained in Annexure-9 which is dated 19.01.2015 passed in his Service Appeal No. 28 of 2014 because the Service Appeal affirmed the order of the Excise Commissioner.

No doubt counter affidavit was earlier filed by the State supporting or justifying the decision for the same set of reasons why it came to be passed in the very first place. But a basic question was raised in the writ application whether it was the responsibility of the petitioner by virtue of the post which he held to meet the revenue targets and whether there was any circular or directive of the State or the department where anybody posted in the department irrespective of his post or rank could be held liable for shortfall in meeting the targets of revenue collection.

Despite several adjournments nothing has been offered by the State in the supplementary counter affidavit. They have only again repeated what they had said earlier that the Minimum Granted Quota (MGO) had not been lifted and that shows slackness on the part of every employee.

The Court is not satisfied with the explanation or the stand taken by the State. A punishment cannot visit the petitioner on a charge or an allegation which may not even be justifiable in the eye of law. The State cannot get away with the stand that withholding of one increment without cumulative effect is a minor punishment.

A punishment major or minor is a punishment and it has fall out for a government servant. If the State has failed to correlate the responsibility of the petitioner vis-a-vis the reason for which the order of punishment has come to visit him then the Court has not been left with any option but to hold such decisions to be totally arbitrary and perverse.

The Court, therefore, quashes Annexure-4 and Annexure-9 dated 03.02.2014 and 19.01.2015 respectively.

Writ application is allowed.

It is left open to the respondent authorities to formulate a policy create guidelines as well as create obligation upon each and every person working in the Excise Department but in absence of the same, the Court will not permit an action to be taken against the petitioner.

(Ajay Kumar Tripathi, J.)

Vats/-

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