

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6996 of 2014

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Ram Chandra Mahto, Son of Late Butan Mahto of Village - P.O.
Dharmagatpur Bathua, P.S. Pusa, District - Samastipur

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar,
Patna
2. The Divisional Commissioner, Darbhanga
3. The D.M. Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad

For the Respondent/s : Mr. Asit Kumar Jha, AC to GP-6

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

2 07-01-2015 Heard the parties.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India assailing the validity and correctness of the order dated 23rd July, 2012 (Annexure-3) passed by the respondent District Magistrate, Samastipur awarding a minor punishment to the petitioner under the provisions of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 as also the validity and correctness of the appellate order dated 05.02.2013 (Annexure-4), whereby the Service Appeal No.54 of 2012 filed on behalf of the petitioner has been dismissed by the respondent no.2.

Learned counsel appearing on behalf of the petitioner has submitted that the petitioner, being aggrieved by the original order of punishment, as contained in Annexure-3, passed by the respondent District Magistrate, had filed Service Appeal No.54 of 2012 before the respondent Commissioner, Darbhanga Division, Darbhanga. It is contended that, though the petitioner had raised

various legal issues, while assailing the validity of the impugned order of punishment, yet the appellate authority has dismissed the aforesaid appeal in a most mechanical manner by a most cryptic order.

Though, a counter affidavit has been filed on behalf of the respondent no.3 supporting the order of punishment, but this Court is of the opinion that, if the petitioner was awarded punishment by the disciplinary authority, he had statutory right to file an appeal before the appellate authority. The appeal preferred by the petitioner was required to be decided by a reasoned and speaking order. Admittedly, that has not been done in the present case.

For the reasons recorded above, the impugned appellate order dated 05.02.2013 (Annexure-4) passed in Service Appeal No.54 of 2012 by the respondent Commissioner, Darbhanga Division, Darbhanga is hereby set aside and quashed and the matter is remitted back to him for hearing and deciding the aforesaid Service Appeal No.54 of 2012 filed by the petitioner afresh by a reasoned and speaking order.

The writ petition stands allowed to the extent indicated above. However, the parties are left to bear their own costs.

(Birendra Prasad Verma, J)

Arvind/-

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