

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16508 of 2008

Prabhat Kumar Sinha, son of Late Rajeshwar Prasad, resident of Village- Navin Colony, Sant Kabir Road, Banu Chapra, Bettiah, P.S.- Bettiah Mufassil, District- Bettiah.

.... Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The District Magistrate, West Champaran at Bettiah, District- West Champaran.
4. The Additional Collector, West Champaran at Bettiah, District- West Champaran.
5. The Deputy Collector, West Champaran at Bettiah, District- West Champaran.
6. The Circle Officer, Manjhaulia, District- West Champaran at Bettiah.
7. The Circle Officer, Sikta, District- West Champaran at Bettiah
8. The Block Development Officer, Sikta, District- West Champaran at Bettiah

.... Respondents

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate
Mr. Dhananjay Kumar Gupta
Mr. Deepak Kumar
Mr. Rananjay Kumar

For the Respondent/s : Mrs. Nivedita Nirvikar, GA-10
Mr. Manoj Kumar, AC to GA-10

CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 22-12-2015

Heard learned counsel for the petitioner and the respondents.

2. The petitioner seeks quashing of the order dated 29.09.2008 passed by the Commissioner, Tirhut Division, Muzaffarpur (respondent no.2) in Departmental Appeal No. 163 of 2007 upholding the order of Collector, West Champaran, Bettiah dated 20.11.2006 dismissing the petitioner from service with all consequential benefits.

3. Before I consider the grounds on which the petitioner has challenged the enquiry report dated 29.05.2006 as well as order of dismissal, it would be relevant to notice the facts of the case in brief:

4. The petitioner was appointed on 30.07.1987 on the post of Revenue Clerk on compassionate ground and was posted in Sikta Block, where he worked till 05.12.2014 and was holding charge of Halka No.1 and Halka No.7.

5. On 10.01.2005, one Nathuni Sah made complaint that revenue receipt has wrongly been favoured in the name of Khedu Ahir and Shiv Ahir with respect to plot no.101, Khesara no. 361, area measuring 14 Kathas and 4 dhurs. After enquiry, the Circle Officer submitted his report alleging tampering in the revenue register by the petitioner and issuance of revenue receipts. The Circle Officer too forwarded his report to the District Magistrate, West Champaan vide letter no. G/40 dated 09.04.2005, on the basis of which the petitioner was put under suspension vide order dated 03.05.2005 of Collector, West Champaran. Charges against the petitioner was issued in Prapatra (K), a copy of which was given to the petitioner with a liberty to file his written explanation before Binod Kumar Pankaj, Deputy Collector, who was appointed as conducting officer of the Departmental Proceeding.

6. The petitioner submitted his explanation on 03.09.2005.



The conducting officer informed the Circle Officer to appear before him or authorize his staff to take part in the Departmental enquiry with all relevant records on 26.12.2005 vide Memo dated 20.12.2005. The writ petitioner was also informed by the same letter to ensure his presence on 26.12.2005 (Annexure-E). In the meantime, the petitioner challenged the order of suspension in C.W.J.C. No. 5424 of 2006. The writ application was disposed of with a direction to conclude the departmental proceeding shortly.

7. In the Departmental proceeding, the Circle Officer, Sikta produced the relevant papers before Conducting Officer in presence of the writ petitioner, who verified the allegations from the original record and concluded the enquiry. On 29.05.2006, the enquiry officer submitted his report holding the petitioner guilty of all the five charges. On 12.06.2006, the Collector issued second show-cause along with a copy of the enquiry report for response of the petitioner with respect to the findings recorded against him.

8. The petitioner accordingly submitted his reply on 24.06.2006. Not being satisfied with the explanation of the petitioner, the disciplinary authority, namely, the Collector, West Champaran, Bettiah dismissed him from service on 20.11.2006. The petitioner challenged the dismissal order in C.W.J.C. No. 15800 of 2006, which was disposed of on 31.07.2007 with liberty to file appeal.

Subsequently, the petitioner filed appeal giving rise to Service Appeal No. 163 of 2007, which too was dismissed by the learned Commissioner, Tirhut Division, Muzaffarpur, hence this writ application.

9. The petitioner submits that the enquiry officer erred in holding him guilty of the charges. He submits that he has been wrongly held guilty and punished. He also submits that the enquiry report of the Circle Officer was not perused by the conducting officer while holding him guilty. In alternative, he argued that the punishment of dismissal is harsh and excessive in comparison to the offence committed by him.

10. As the petitioner has submitted that the conducting officer held him guilty without perusing the enquiry report, this Court by order dated 02.01.2014 directed to produce the original records in Court. Pursuant to the Direction, Mrs. Nivedita Nirvikar, learned counsel appearing for the State has produced the record for perusal. It would appear from the record of the proceedings that the enquiry report was produced in presence of the writ petitioner on 26.12.2005, as such the submission of the latter that the conducting officer submitted his report without verifying the enquiry report is devoid of merit and is rejected.

11. The petitioner next contended that the conducting

officer erred in holding him guilty of charges. In a Departmental enquiry, the Court will not go into the sufficiency or otherwise of the materials on which the enquiry officer has recorded his findings. I find from the enquiry report that the conducting officer had discussed the evidence and on the basis of the same, he had recorded the finding of guilt. Besides this, I find no procedural irregularity in completion of the departmental enquiry, as such the prayer of the petitioner to discard the enquiry report is bereft of merit and is accordingly rejected. However, the petitioner in alternative has prayed that the punishment accorded is too harsh and excessive. I may agree with the submission of the petitioner so far it relates to quantum of punishment. There is no previous record of any laches or misconduct. According to the petitioner, the mistake if any is bonafide. Having regard to the facts of the case, I remit the matter to the disciplinary authority to reconsider the issue of quantum of punishment.

12. With the aforesaid observation, this writ application stands disposed of.

(Samarendra Pratap Singh, J.)

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