

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10293 of 2008

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Virginia Lakra, wife of Sri Ramanus Khalko, resident of Kazipur, P.S. Kadamkuan,
District and Town- Patna

.... Petitioner

Versus

1. The State of Bihar through the Secretary, Land Reforms Department,
Government of Bihar, Patna
 2. The Divisional Commissioner, Patna Division, Patna
 3. The District Magistrate-cum- Collector, Patna
 4. The Additional District Magistrate(Establishment), Patna Collectorate, Patna
- Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Sajal Kr.Sinha, Adv.
Mr. Bimlendu Shekher Thakur

For the Respondent/s : Mr. AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 15-04-2015

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Heard Sri Sajal Kumar Sinha, learned counsel for the
petitioner and learned AC to AAG-6.

2. The petitioner, invoking writ jurisdiction of this Court
under Article-226 of the Constitution of India, has prayed for
quashing of an order, contained in Memo No.1273 dated 28.06.2001
passed by the District Magistrate, Patna(Annexure-1 to the writ
petition), whereby the District Magistrate in a departmental
proceeding has awarded punishment of Censure and directed that save
and except subsistence allowance, the petitioner shall not be entitled
to get anything during the period of her suspension. The petitioner has
also prayed for quashing of order dated 22.01.2008 passed by the

Divisional Commissioner, Patna in Service Appeal No.28 of 2004. By the said order, the appeal preferred by the petitioner against the order of the disciplinary authority has been rejected.

3. Learned counsel for the petitioner has raised limited question assailing the order of the disciplinary authority on the ground that though during the departmental enquiry charges were not proved and the conducting officer exonerated the petitioner, however the District Magistrate i.e. the disciplinary authority without asking the petitioner to file any explanation regarding difference of opinion of the disciplinary authority with the enquiry report has passed the order of punishment. He submits that the order impugned is in the teeth of law laid down by the Hon'ble Apex Court, reported in (1998) 7 SCC 84; Punjab National Bank & Ors Vs. Kunj Behari Misra . He submits that on this score alone, the order of punishment as well as the order of the appellate authority is liable to be set aside.

4. Learned State Counsel opposing the prayer of the petitioner submits that of course the disciplinary authority has not assigned any reason and simply punishment order has been passed but the order of punishment has been justified by assigning reason by the appellate authority and, as such, the writ petition is liable to be rejected.

5. Besides hearing learned counsel for the parties, I have



also perused the materials available on record. Fact remains that the petitioner was proceeded departmentally in relation to two charges relating to dereliction of duty and indiscipline. The petitioner at the relevant time was Lower Division Assistant in Patna Collectorate. By Annexure-3 to the writ petition, the petitioner was put under suspension and vide Annexure-4 to the writ petition, by framing charge, the enquiry officer i.e. the Dy. Collector Land Reforms, Patna was appointed to conduct enquiry. It is evident from the record that the conducting officer exonerated the petitioner from both charges. Learned counsel for the petitioner has placed reliance at page-29 of the writ petition i.e. concluding portion of the enquiry officer in the departmental proceeding. Even though the petitioner was exonerated from both charges, the disciplinary authority vide Annexure-1 has passed order of punishment. On perusal of Annexure-1, it is evident that while imposing punishment, the learned District Magistrate has not bothered to indicate as to whether the petitioner was exonerated by the conducting officer nor he had asked the petitioner to submit her explanation regarding difference of opinion of the disciplinary authority with the report of the conducting officer. In one stroke punishment order has been passed. Of course punishment no.1 is minor but fact remains that the petitioner has been deprived from getting any benefits save and except subsistence allowance during the

period of her suspension. Prima facie, order impugned i.e. Annexure-1 is illegal and perverse. Accordingly, the Court has got no option, but to set side the same. Since the order of the disciplinary authority i.e. Annexure-1 dated 28.06.2001 is set aside, there is no reason to allow the order of the disciplinary authority to continue. Accordingly, Annexure -2 is also hereby set aside.

6. The writ petition stands allowed.

7. In view of the fact that punishment order(s) has/ have already been set aside, the concerned District Magistrate is required to take steps for granting all consequential benefits to the petitioner preferably within a period of three months from the date of receipt/production of a copy of this order.

(Rakesh Kumar, J)

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