

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No 1955 of 2015

IN

Civil Writ Jurisdiction Case No 4188 of 2011

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Parmanand Maurya, Son of Late Brij Mohan Lal Maurya, Resident of Village-Saraiyan, P.S. Fatehpur, District Barabanki (U.P.) presently posted as Sub- Judge, 5th, Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Amir Subhani, the Principal Secretary, General Administration Department, Govt of Bihar, Patna.
3. Mr Sanjay Kumar, the Accountant General, Bihar, Veer Chand Patel Marg, Patna.

.... Respondent/s

WITH

Civil Review No 39 of 2016

IN

Civil Writ Jurisdiction Case No 4188 of 2011

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1. The High Court of Judicature at Patna through the Registrar General
2. The Enquiry Officer-cum-District and Sessions Judge, Rohtas at Sasaram.
3. The District and Sessions Judge, Madhubani.

.... Petitioner/s

Versus

1. Parmanand Maurya Son of late Brij Mohan Lal Maurya resident of Village-Saraiyan, PS Fatehpur District Barabanki (U.P) Presently posted as Sub-Judge VI, Samastipur.
2. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Joint Secretary, General Administration Department Govt. of Bihar Patna.

.... Respondent/s

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For the Petitioner/s : M/s Naresh Dikshit & Lalan Kr, Advocates

For the High Court : M/s Satyabir Bharti & Alok Chandra, Advocates

For the S t a t e : Mr Uday Prasad, AC to GP 22

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CORAM: HON'BLE MR JUSTICE NAVANITI PRASAD SINGH
And
HON'BLE JUSTICE SMT NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR JUSTICE NAVANITI PRASAD SINGH)

Date: 10-08-206

These two applications, one for initiating contempt proceeding and the other seeking review, arise out of the consequences that would ensue from the judgment and order of Division Bench of this Court dated 26.03.2015 passed in CWJC No 4188 of 2011 (Parmanand Maurya –Versus- State of Bihar & Others).

2 Shri Parmanand Maurya is a senior Judicial Officer of the rank of Civil Judge (Senior Division) having joined Bihar Judicial Service in the year, 1986. While he was Sub Judge in the cadre of Civil Judge (Senior Division), he was considered for the post of Fast Track Court (for brevity, *FTC*) and having been selected, he was made ad hoc Additional District & Sessions Judge (for brevity, *ADJ*) to man FTC. It is settled that such a promotion is not a promotion in fact, but only an ad hoc arrangement which would entitle him to an increased salary, but substantively he would continue to be an officer of the Civil Judge (Senior Division) and not of the cadre of District Judge.

3 Certain delinquency was reported and a departmental proceeding was initiated. In the departmental proceeding, he was



found guilty of gross misconduct unbecoming of a senior Judicial Officer. However, as a matter of punishment, his deputation as ad hoc ADJ was cancelled and he was ordered to be reverted of his substantive post of Sub Judge. As a matter of further punishment, three increments were to be withheld with cumulative effect. He challenged this punishment before this Court in the aforesaid writ petition without success. While disposing of the writ petition, the punishment was also maintained though clarified. It appears while giving effect to the punishment order of this Court, the State Government brought him to the basic scale of Sub Judge with a note of withholding with cumulative effect, three subsequent increments. This was objected to by the Accountant General, Bihar, Patna and brought to the notice of this Court. Naturally, the Judicial Officer was also not satisfied. This having been brought to the notice of this Court, this Court, on the administrative side, opined that as all this was being done by virtue of judicial order, the matter required clarification on the judicial side and, accordingly, the High Court, in the administrative side, has sought review/modification/clarification of the order of the Writ Court. In the meantime, the Judicial Officer also had filed the present contempt application complaining that the order was not correctly implemented.

4 Having heard learned counsels and examining the



records, in our view, the order of punishment was clear. The ad hoc promotion or the deputation to the post of ad hoc ADJ was revoked. Thus, he would go back to the substantive cadre of Sub Judge. This would not be that he would go to the basic grade of Sub Judge. He would be restored to the position from where he had made the upward movement as ad hoc ADJ. It appears that he was at almost the higher grade of pay in the scale of Sub Judge. He would, accordingly, in our view, be placed at the same place and not in the basic grade.

5 Shri Satyabir Bharti, learned counsel appearing for the High Court points out that if he is so placed, he will be entitled to only one increment and, as such, effectively, the punishment would pull down to withholding of one increment with cumulative effect.

6 In our view, if that is the position in fact it will be as it is. The office cannot be made to suffer double punishment that is demoted to the basic grade and then withholding three increments with cumulative effect.

7 Thus, we clarify that the effect of the punishment order passed by the High Court and, as upheld by the Division Bench in the writ proceedings, would be that he would come back to his substantive cadre of Civil Judge (Senior Division) at the same level from which he had been deputed as ad hoc ADJ. If, in the said cadre, he is entitled to any increment, then to the maximum of three, would

be withheld with cumulative effect.

8 With this clarification, both these applications stand disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

M.E.H./-

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