

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17579 of 2014

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Ram Shankar Jha, Son of Sri Bhola Jha, Resident of Village- Bangrahatta, Police Station- Singhiya, District-Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Labour Resources Department, Government of Bihar, Patna.
3. The Labour Commissioner, Labour Resources Department, Government of Bihar, Patna.
4. The Assistant Labour Commissioner, Officer of Chief Investigating Officer, Bihar, 44/84, Offices Flat, New Punaichak, Patna.
5. The District Election Officer (Panchayat) cum the District Magistrate, Jehanabad.
6. The District Panchayat Raj Officer, Jehanabad.
7. The Senior Deputy Collector –cum-Observer, Kako Block, district- Jehanabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chittaranjan Sinha, Sr. Advocate with
Mr. Satish Chandra Jha, Advocate

For the State : Mr. Deepak Sahay Jamuar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 03-08-2016

Heard Mr. Chittaranjan Sinha, learned senior counsel
appearing for the petitioner and Mr. Deepak Sahay Jamuar, learned
A.C. to A.A.G.-4, for the State.

With the consent of the parties this matter has been heard
with a view to its final disposal at the stage of admission itself.

The petitioner is aggrieved by the order bearing memo
No.2523 dated 28.8.2014 passed by the Secretary, Labour
Resources Department, Government of Bihar, Patna, whereby the
appellate authority while dismissing the statutory appeal preferred
by the petitioner, has confirmed the order of dismissal passed by

the disciplinary authority vide memo no.1359 dated 13.5.2014. Copies of the orders passed by the appellate authority and the disciplinary authority are impugned at Annexures-1 and 2 respectively to the writ petition.

In the nature of the order which this Court would propose to pass it would not require discussing the matter threadbare. Suffice it to say that the petitioner at the relevant time was holding the post of Block Development Officer, Ratni Faridpur in the district of Jehanabad. A charge memo was served upon him on 25.5.2011 listing four charges, a copy of which is a part of Annexure-8 series. The Charge no.1 relates to surrender of fund allotment even when there was a responsibility to pay the dues of a Government employee whose matter was pending consideration in a contempt matter. Charge No.2 discusses some irregularity on the part of the petitioner as the Returning Officer in making declaration in favour of a candidate other than the returned candidate. Charge no.3 relates to the stay of the petitioner at a place other than the headquarter and Charge no.4 relates to non-writing of the accounts book.

The charges led to an enquiry and the report is present at Annexure-13 whereby the Enquiry Officer partially upholds Charge no.1 and 2. In his opinion while Charge no.3 was fit to be ignored, Charge no.4 was not proved. A show cause was served on



the petitioner vide Annexure-13 against alleged proved charges and why not he be punished for the same. An exhaustive reply was filed by the petitioner at Annexure-14 in reference to the finding of the Enquiry Officer which was rejected and the Labour Commissioner in the capacity of the disciplinary authority has ordered for dismissal of the petitioner vide order bearing memo no.1359 dated 13.5.2011 impugned at Annexure-2 and which order of the disciplinary authority has been affirmed in appeal vide Annexure-1 bearing memo no.2532 dated 28.8.2014. The petitioner being aggrieved is before this Court.

Although Mr. Sinha, learned senior counsel appearing for the petitioner has taken this Court through the explanation given by the petitioner as against the charges and the finding of the enquiry officer to question the validity of the proceedings but as I have already observed that in the nature of the order which this Court would propose to pass I would not delve deep into the merits of the charges at this stage. In my opinion the following issues raised by Mr. Sinha, learned senior counsel for the petitioner is sufficient to allow the writ petition and that is:

- a) Even while the Enquiry Officer has partially upheld Charge nos.1 and 2 while recommending to ignore Charge no.3 and rejecting Charge no.4, the second show cause impugned at Annexure-13 does



not reflect any tentative reason of disagreement nor reflects the opinion of the disciplinary authority why he proposes to continue with the disciplinary proceedings on the partial upheld of Charge nos.1 and 2 or the other two charges.

- b) There is again no show cause against the proposed penalty rather it is simply on the basis of the reply filed by the petitioner vide Annexure-14 in response to the second show cause present at Annexure-13 that the order of dismissal impugned at Annexure-2 has been passed.
- c) The order of the disciplinary authority mechanically upholds the charges without having a discussion as to the explanation given by the enquiry officer or the defence taken by the petitioner.
- (d) It is after the disciplinary authority has upheld the charges that he proceeds to reject the recommendation of the Enquiry Officer which is putting the cart before the horse.
- e) Although an exhaustive appeal was filed by the petitioner at Annexure-15 but the opinion of the appellate authority is even more mechanical when

he submits that no explanation was given by the petitioner nor did the petitioner lead evidence.

- f) The orders of the disciplinary authority as well as the appellate authority are unreasoned, mechanical and without application of mind.

For the reasons aforementioned, the order of dismissal passed against the petitioner impugned at Annexure-2 along with its affirmation by the appellate authority vide order present at Annexure-1 cannot be upheld and are accordingly quashed and set aside.

The writ petition is allowed.

This order would, however, not preclude the disciplinary authority to proceed afresh from the stage of submission of the enquiry report by the Enquiry Officer, but in accordance with law.

(Jyoti Saran, J)

deepika/-

NAFR	
CAV DATE	
Uploading Date	16.8.2016
Transmission Date	