

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.130 of 2011

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Panna Lal Ram Late Munnilal Ram of Village - Jagdishpur Purab Mohalla, P.S. - Jagdishpur, District - Bhojpur

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary Revenue Department, Govt. of Bihar, Patna
3. The D.M. Nalanda (Biharsharif)
4. The Circle Officer, Hilsa, Nalanda

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Advocate
For the State : Mr. Pratik Kumar Sinha, A.C. to G.A.5

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 09-08-2016

Heard the parties.

The petitioner has questioned the order bearing Memo No.478 dated 4.7.2008 of the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar whereby he has been dismissed from service, a copy of the order passed is impugned at Annexure-4 to the writ petition.

Mr. Ram Hriday Prasad learned counsel has appeared for the petitioner and the State is represented by Mr. Pratik Kumar Sinha, learned A.C. to G.A.5.

The charge memo is placed on record vide Annexure-A to the counter affidavit and charges the petitioner on six counts which are as follows :-

Charge No.1 : disobedience of the order of the superiors,

Charge No.2 : not taking interest in his work,

Charge No.3 : not taking part in the weekly meetings,

Charge No.4 : negligence in preparing the report for presentation to the Public Accounts Committee,

Charge No.5 : not participating in the District Level Meeting on 14.10.2005 and

Charge No.6 : attending office in inebriated condition.

Each of the charges stands discussed in the charge memo in detail. The Deputy Secretary was appointed as the Enquiry Officer. The petitioner was directed to file his reply to the charge. The proceedings on record at Annexure-B to the counter affidavit shows that no reply was filed and it is only on 14.2.2007 that the petitioner filed his reply. The report of the Enquiry Officer at Annexure-B discusses the charge together with the evidence relied upon in support thereof and the reply of the petitioner. The Enquiry Officer submitted his report and while the Enquiry Officer did not find material supporting the Charge No.2 but the remaining five charges were upheld. The petitioner was put to notice by the Disciplinary Authority requiring him to file his reply on the opinion of the Enquiry Officer but the order of the disciplinary authority reflects that the petitioner did not respond to the notice and it is only after a paper notice was published on 28.7.2007 that the petitioner submitted his show cause on 8.8.2007. The petitioner appeared on 28.11.2007 and prayed time



to lead evidence. The date of enquiry was thus fixed on 12.10.2007 on which date the petitioner again prayed for time which was granted fixing 7.1.2008 as the next date. On the said date, the petitioner appeared and was given opportunity to lead evidence but the petitioner filed an application that he had moved this Court in C.W.J.C. No.1448 of 2007, which is pending consideration. The matter was thereafter fixed on 1.11.2007. The Disciplinary Authority has mentioned that despite time being granted to the petitioner to lead evidence, he did not take benefit of the adjournment nor led any evidence. The Enquiry officer submitted his report present at Annexure B. The Disciplinary Authority considered the charges in the backdrop of the enquiry report and upheld the same leading to the order of dismissal impugned at Annexure-4.

I have heard learned counsel for the parties and I have perused the records.

The allegations are rather serious and it is not a stray instance that the petitioner has failed to discharge his duty rather a cursory glance to the six charges would reflect that the petitioner was hardly interested in discharging his obligations. Although argument has been advanced by Mr. Ram Hriday Prasad, learned counsel for the petitioner that the petitioner was denied reasonable opportunity to defend his case but considering the enquiry report as well as the discussed opinion of the Disciplinary Authority, the objection raised

by Mr. Prasad has no legs to stand. There can not be a better instance of grant of reasonable opportunity to the petitioner. The default, if any, is entirely attributable to the petitioner for not taking benefit thereof.

The other argument led by Mr. Prasad is that no evidence was adduced by the Department to drive home the charges. In my opinion, in the nature of the charges so framed which is entirely borne from the records and are relatable to the discharge of the routine functions by the petitioner and also discusses his failure to do so, it was for the petitioner to rebut the same by leading evidence to such effect.

In my opinion, considering the matter in its totality and the non-cooperative attitude of the petitioner, no procedural infirmity can be found in the decision making process and again considering the nature of the charges framed against the petitioner, I am also of the opinion that the punishment imposed is not disproportionate requiring any interference.

The writ petition is, accordingly, dismissed.

(Jyoti Saran, J)

N.H./-

AFR/NAFR	NAFR
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