

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13614 of 2008

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Ramashish Yadav, son of Sri Gulabi Chaudhary, resident of Village and P.O. Thepaha, Police Station- Jiradei, District- Siwan, presently posted as Nazir in Block Office under Basantpur Block, District-Siwan.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Secretary -cum- Commissioner, Revenue Department, Government of Bihar, Patna.
3. The Joint Secretary, Revenue Department, Government of Bihar, Patna.
4. The Commissioner, Saran Commissioner, Saran at Chapra.
5. The District Magistrate, Siwan, District- Siwan.
6. The Circle Officer, Darauli, District- Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Prasad Yadav, Advocate

For the Respondent/s : Mr. Deepak Sahay Jamuar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 08-09-2016

Heard Mr. Shambhu Prasad Yadav, learned counsel appearing for the petitioner and Mr. Deepak Sahay Jamuar, learned Assisting Counsel to Additional Advocate General No.4 for the State.

The petitioner is aggrieved by the order bearing Memo No.205 dated 2.3.2007 passed by the District Magistrate, Siwan, whereby the petitioner has been visited with the following punishments:

- (a) Withholding of three annual increments with non-cumulative effect;
- (b) Restriction of pay and allowances to the subsistence

allowance drawn by the petitioner during the period of suspension; and

(c) Warning.

The order passed by the Disciplinary Authority impugned at Annexure-2 has been affirmed in appeal when the Commissioner, Saran Division at Chapra has dismissed the Service Appeal No.390 of 2007 preferred by the petitioner vide order passed on 14.2.2008 impugned at Annexure-3.

The charge against the petitioner is impugned at Annexure-1 and was served on him vide Memo No.406 dated 14.7.2006 of the District Magistrate, Siwan and charges the petitioner of withholding of execution of warrant issued in respect of Prem Sagar Pandey, a candidate for the Panchayat election until the filing of the nomination with a view to provide him the benefit. An enquiry was held and the report of which is placed vide Annexure-9 to the supplementary affidavit. The Additional Collector –cum- Enquiry Officer while upholding the charge of non-execution of warrant by the petitioner, has attributed to the work load during the election period. The suggestion of the enquiry officer as regarding the nature of penalty to be imposed has not been accepted and in view of the nature of charge, the Disciplinary Authority has imposed the minor punishment aforementioned

which has been affirmed by the Appellate Authority.

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

The charge on the petitioner of sitting on the execution of warrant goes undisputed for even when a stand has been taken by Mr. Yadav, learned counsel appearing for the petitioner that the petitioner had handed over the warrant to office Peon Yugal Kishore Prasad for execution and since the said Peon had gone on leave which delayed the execution but there is nothing on the record of the proceeding to support such statement. On the contrary the record would manifest that the warrant was received in the circle office on 2.3.2006 and remained with the petitioner until 8.3.2006 when it was served in the local police station at 3.45PM on 8.3.2006 which was received by one Banke Bihari Singh, a staff in the local police station. In view of the Peon-Book report present at Annexure-5 which shows that the warrant was handed over to the Station House Officer on 8.3.2006, even the explanations given by the petitioner does not hold good. There is absolutely nothing on record of the proceedings which would suggest that the petitioner has discharged his obligation and handed over the warrant to Yugal Kishore Prasad for its service.

In the uncontested circumstances discussed above and

in absence of any document to support that the petitioner had handed over the warrant to Yugal Kishore Prasad for service in the local police station, in my opinion neither the enquiry report upholding the charge against the petitioner nor the penalty so imposed by the disciplinary authority as affirmed in appeal, would warrant any interference.

The writ petition is accordingly disposed of.

Let the records in CWJC No.12232 of 2008, be returned to the record room.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19-09-2016
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