

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21058 of 2012

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Sirajuddin, Son of Late Hasnuddin, permanent resident of Village Karmaini, P.O. Chandrauta, District - Kushi Nagar (U.P.), presently resident at 154 2nd Haroon Nagar Colony, Phulwarisarif, P.S. Phulwarisarif, in the town and district - Patna

.... Petitioner/s

Versus

1. The State of Bihar through Agriculture Production Commissioner, Department of Agriculture, Government of Bihar, Patna
2. The Agriculture Production Commissioner, Department of Agriculture, Government of Bihar, Patna
3. The Secretary, Department of Agriculture, Government of Bihar, Patna
4. The Joint Secretary, Department of Agriculture, Government of Bihar, Patna
5. The Deputy Secretary, Department of Agriculture, Government of Bihar, Patna
6. The Director, Agriculture Directorate, Department of Agriculture, Government of Bihar, Patna
7. The Deputy Director (Administration), Agriculture Directorate, Department of Agriculture, Government of Bihar, Patna
8. The Accountant General , Bihar, Patna, Beerchand Patel Marg, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate.

For the State : Mr. Nagendra Prasad Yadav, S.C. 23
Mr. Rohit Mishra, Advocate.

For Accountant General : Mr. Ranjan Kumar, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

ORAL JUDGMENT

Date: 20-08-2016

The challenge in the present writ application is to an order

passed by the Disciplinary Authority on 21st of September, 2007 whereby, 10 per cent pension was ordered to be deducted on account of Charge Nos. 3, 4, 5, 6 and 7 said to have been proved against the petitioner.

2. The appeal against the said order was dismissed on 20th of July, 2009 being barred by limitation. Aggrieved against the said orders, the petitioner has invoked the writ jurisdiction of this Court.

3. Learned counsel for the petitioner vehemently argued that petitioner was charge-sheeted inasmuch as on seven different charges. The Inquiry Officer exonerated the petitioner but without recording any disagreement note, the Disciplinary Authority has passed an order on 21st of September, 2007 imposing punishment. Such order was challenged in appeal which was dismissed being barred by limitation.

4. On the other hand, learned counsel for the State refers to the various findings of the Inquiry Officer to contend that some of the charges were found proved by the Inquiry Officer whereas, in respect of some others, the petitioner was exonerated and that the Disciplinary Authority issued second show-cause notice sending a copy of the Inquiry Report and thereafter passed an order of punishment. The appeal was rightly dismissed as it was filed after gross delay.

5. I have heard learned counsel for the parties.

6. During the course of hearing, learned counsel for the petitioner pointed out that petitioner was not even served second show-cause notice along with copy of the Inquiry Report apart from the fact that no reasons of disagreement was recorded, as mandated by the Hon'ble Supreme Court in Punjab National Bank Vs. Sh. Kunj Behari Misra, 1998 (7) SCC 14.

7. Learned counsel for the State could not refer to any averment which may support a fact that a show-cause notice was served upon the petitioner along with the copy of the Inquiry Report. The findings recorded by the Inquiry Officer on different charges require minute examination to return a finding whether some charges have been proved by the Inquiry Officer or not.

8. Since admittedly, an order of punishment has been passed but without recording any reasons of disagreement, such procedure violates the principles of natural justice and is contrary to the Supreme Court judgment in the case of Kunj Behari Misra (supra).

9. Consequently, an order passed by the Disciplinary Authority on 21st of September, 2007 and the order dated 20th of July, 2009 are set aside and the matter is remitted back to the Disciplinary Authority with liberty to proceed from the stage of receipt of the Inquiry Report in accordance with law.

10. With the aforesaid direction, the writ application stands disposed of.

(Hemant Gupta, J)

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