

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6669 of 2014

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Choudhary Nagmani Chakrwardi S/O Late Dasai Choudhary Resident Of Village
And P.O.- Maranchi, P.S.- Punpun, District- Patna Petitioner

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Health,
Govt. Of Bihar, Patna,
 2. Director In Chief, Health Services, Bihar, Patna
 3. Civil Surgeon Cum Chief Medical Officer, Patna Respondents
- =====

Appearance :

For the Petitioner/s : Mr. Banwari Sharma, Advocate,
Mr. Shiv Kumar, Advocate and
Mr. Sahjanand Sharma, Advocate
For the Respondent/s : Mr. Ashok Kr.Pathak, AC to GP XI.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL JUDGMENT

Date: 02-05-2016

The petitioner prays for quashing order dated 13.2.2014 (Annexure 9), by which he has been placed under suspension. He has further prayed for quashing order dated 17.2.2014, Annexure 10, by which a departmental proceeding has also been initiated against him. By filing I.A.No.5868 of 2015, he has also challenged order dated 24.5.2014 by which he has been dismissed form service, during pendency of the writ petition.

The petitioner was appointed as Clerk in the year 1995 in the Civil Surgeon Office, Patna by the order of the Director in Chief, Health Services, Bihar, Patna (respondent no.2). He was arrested in a trap case by Vigilance bureau on 9.3.2011, while accepting bribe from one Smt. Malti Kumari and was remanded to



judicial custody, A proceeding was also started and a copy of charge memo is also contained in Annexure 5. The petitioner filed his show cause reply. The enquiry officer submitted inconclusive report on 8.10.2011. He opined that as the employee is being tried in the departmental proceeding for the same set of charges, for which criminal case is pending, the departmental proceeding may await final decision in the criminal case. Only three years thereafter, on 15.2.2014, again the petitioner was proceeded substantially for the same charge vide order, dated 15.2.2014 of Director In Chief, Health Services, Bihar, Patna. The petitioner once again denied the charges in his written statement. The enquiry officer found the petitioner guilty of charges. On the basis of the enquiry report and after issuing the petitioner a show cause, he was dismissed from service. The petitioner has assailed the impugned order of punishment as well as the departmental proceeding.

The petitioner submits that the 2nd proceeding is in respect of same charge for which a criminal case was already instituted. Besides this, no proper enquiry was held as per the settled principles of departmental enquiry.

I find that there is a provision of appeal against order passed by respondent no.2 and the petitioner has already preferred an appeal. The writ petition is disposed of with a direction to

respondent no.2 to dispose of petitioner’s appeal within a period of four months from the date of receipt of this order.

(Samarendra Pratap Singh, J)

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