

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10074 of 2013

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1. Raj Kumar Choudhary Son Of Jogeshwar Choudhary Resident Of Village Chakdah, P.S.- Rajnagar, District- Madhubani. At Present Peon In The Kuraitha Animal Department, Katihar

.... Petitioner/s

Versus

1. The State Of Bihar Through Principal Secretary Animal Husbandry Department, Bihar
2. The Director, Animal Husbandry Department, Bihar, Patna
3. The Deputy Director, Animal Husbandry Department Bihar, Patna
4. The Regional Director, Purnea
5. District Animal Husbandry Officer Araria
6. Vetanary Officer, Kadwa Hospital, Katihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the State : Mr. Nawal Kishore Singh, AC to GP26

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 26-07-2016

No one was present on behalf of the petitioner on 21.7.2016. However, learned counsel for the State was present. This Court on that day adjourned the case suo motu. Today no one appears on behalf of the petitioner to press this case. However, learned counsel for the State is present.

This Court has no option but to dispose of the case on its own merit.

In the present writ petition, a prayer has been made by the petitioner to pay the salary of grade III from the date of suspension i.e. 1.10.1992 up till date. Further prayer has been

made to direct the respondent to show-cause as to why the petitioner who was suspended by letter no.120 dated 27.2.1996 issued by Regional Director Animal Husbandry, Purnea was kept in suspension till 30.8.2006.

Brief facts of the case is that petitioner joined the service on 14.1.1977 in the District of Animal Husbandry Officer, Katihar on the post of peon. He was discharging the duties and was granted promotion in Grade III on 27.9.1992 and remained on the post of grade III at different places in the Purnea Division. While discharging duties he was put under suspension on 27.1.1996 and during suspension period he was allowed subsistence allowances. Ultimately suspension was vacated on 3.8.2006. Departmental proceeding and criminal case were lodged against him. As per claim of the petitioner, after vacation of suspension he was directed to join the post. He was served with the charge-sheet, enquiry was conducted but enquiry Officer did not submit his enquiry report whereupon petitioner moved before the Director Animal Husbandry for issuance of appropriate directions to conclude the departmental proceeding. In response to his request, the Director Animal Husbandry issued letter vide memo no.348 dated 8th July, 2005 calling upon the Regional Director Animal Husbandry, Purnea to ensure the

submission of the enquiry report at an early date but in utter disgust the same was kept pending.

Having no way out the petitioner filed a writ petition vide C.W.J.C. No. 6096 of 2006 which was disposed of on 20.6.2006 giving a direction for early conclusion of departmental proceeding and pass a final order within a period of two months from the date of receipt/production of a copy of this order.

A grievance was raised by the petitioner that he was promoted to Class III but after vacation of suspension he was allowed to join on Class IV post which is an act of arbitrariness on the part of the respondents.

In the counter affidavit a plea has been taken that petitioner was wrongly promoted to Class III post by the Regional Director Animal Husbandry, Purnea as in 1992 he was not authorized or competent for granting promotion on Class III from Class IV post and further said that enquiry was conducted, Enquiring Officer after completion of the proceeding submitted the enquiry report vide letter no.856 dated 27.6.2006, out of five charges, four charges were found to be proved. After receipt of the report, the petitioner was given notice for filing show cause but the petitioner did not respond.

Ultimately Director Animal Husbandry Directorate, Bihar,

Patna passed a final order dated 24.7.2013 awarding minor punishment against the petitioner withholding three increments with non-cumulative effect.

In the present case petitioner has not challenged the order of punishment inflicted upon him which cannot be a matter for consideration by this Court. The issue of demoting to Class IV post as has been claimed in the counter affidavit, during 1992, the Director Animal Husbandry was not authorized to grant the benefit of promotion from Class IV to Class III post. Petitioner was wrongly promoted has not been disputed by the petitioner in any manner.

In such circumstances, this Court does not find any merit in the present writ petition. It is accordingly dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.7.2016
Transmission Date	NA