

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14317 of 2015

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Ram Sajan S/o Late Ram Dawar resident of village and P.O. - Pakari Dubey, P.S. -
Gagaha, District - Gorakhpur (U.P.) at present residing at Mohalla Gopalpur, P.O.
New Shivpuri Colony, P.S. - Cantt. District Gorakhpur (U.P.).

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Additional Secretary, General Administration Department, Government of Bihar, Patna.
4. High Court of Judicature at Patna through the Registrar General.
5. The Registrar General, Patna High Court, Patna.

.... Respondents

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Appearance:

For the Petitioner	:	Mr. Dinu Kumar, Advocate Mr. Satyendra N. Singh, Advocate Mr. Deepak Kumar, Advocate Ms. Ritika Rani, Advocate
For the High Court	:	Mr. Mrigank Mauli, Advocate Mr. Sanket, Advocate Mr. Prince Kumar Mishra, Advocate
For the State	:	Mr. Alok Kumar Rahi, AC to GP 21

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 08-12-2016

Heard learned counsel for the parties.

2. The challenge in the present petition is to an order dated 30th of March, 2015 whereby the petitioner was dismissed from service in exercise of powers conferred under Rule 14(i) of Bihar Civil Service (Classification, Control and Appeal) Rules, 2005.

3. The petitioner being a successful candidate in the 24th



Judicial Service Competitive Examination was appointed as Probationer Munsif on 15th of February, 2001. The petitioner was posted and was working as Sub-divisional Judicial Magistrate, Sherghati (Gaya) when an explanation was sought from him on 7th of January, 2014. The petitioner submitted his reply on 13th of January, 2014. On 12th of February, 2014, the petitioner was served with a memo of charges containing statement of allegations, articles of charges, list of documents and list of witnesses. The petitioner was called upon to submit a reply to the said charge sheet. Subsequently on 23rd of February, 2014, the petitioner was put under suspension and his headquarters was fixed at the office of the District & Sessions Judge, Patna. The petitioner was served with the following seven charges :-

“Charge I: You Sri Ram Sajjan were posted as S.D.J.M., Bagaha (West Champaran) from 14.12.2009 to 17.06.2013. One Ajay Kumar, was granted anticipatory bail in Complaint Case No. 775C/2010, Trial No. 25810/2010F, vide Hon’ble Patna High Court order dated 30.07.2012 passed in Cr. Misc. No. 26602 of 2012 Sri Ajay Kumar surrendered in your Court on 04.08.2012 as per direction of Hon’ble Court seeking permission for furnishing bail bond. You uttered un-parliamentary words against Sri Ajay Kumar and rejected the bail bond on technical ground that the name of one of the bailors in I-Card is Vijay Chandra Sharma while the name in the rent receipt filed with the bail bond is Vijay Chandra Thakur. You also removed the affidavit filed by Vijay



Chandra Sharma from the record in which he had stated that he is being known by both names, i.e. Vijay Chandra Sharma and Vijay Chandra Thakur. You remanded the accused Ajay Kumar in judicial custody and left the headquarters at 12.30 P.M., without giving opportunity to produce another bailor.

In order dated 04.08.2012 you recorded wrong fact that the affidavit with effect that the name as mentioned in the Voter I-Card and rent receipt was of the same person was called for which was not filed on behalf of accused Ajay Kumar in order dated 04.08.2012 you also wrongly recorded that Sri Ajay Kumar was directed to file a fresh bail bond in the light of the order of the Hon'ble Court but he failed to do so.

The aforesaid act of yours is indicative of gross judicial impropriety, lack of integrity and an act unbecoming of a Judicial Officer.

Charge II: You Sri Ram Sajjan were posted as S.D.J.M. Bagaha (West Champaran) from 14.12.2009 to 17.06.2013 on 29.04.2013 accused Binod Yadav surrendered in your Court in Trial No. 4737/13 (2133/12) arising out of Bagaha P.S. Case No. 489/10 with a petition to permit him to remain on previous bail granted to him by you on 24.12.2010 as in-charge A.C.J.M., Bagaha you remanded Sri Binod Yadav to judicial custody on the pretext that the bail order dated 24.12.2010 was not bearing your signature. You made overwriting on bail order (6000x2) dated 24.12.2010 recorded on the bail petition dated 13.12.2010 and also made cutting in the signature of presiding officer on the bail bond dated 24.12.10.

The aforesaid act of yours is indicative of gross judicial impropriety, lack of integrity and an act unbecoming



of a Judicial Officer.

Charge III: You Sri Ram Sajjan while posted as S.D.J.M., Bagaha (West Champaran) from 14.12.2009 to 17.06.2013 you were also functioning as Incharge A.C.J.M. from 28.04.2013 to 01.05.2013. You with ulterior motive called for the record of Complaint Case No. 376/13 (which was filed against you) from the office of A.C.J.M., Bagaha on 29.04.2013 and shifted the date after recalling the earlier order from 02.05.2013 to 30.04.2013.

The aforesaid act of yours is indicative of gross judicial impropriety, lack of integrity and an act unbecoming of a Judicial Officer.

Charge IV: You Ram Sajjan, were posted as S.D.J.M., Sherghati from 18.6.2013 to 22.2.2014 (presently under suspension). You gave threatening to Sri Rajiv Kumar, J.M. Ist Class, Sherghati through your Mobile No. 9431621500 on Mobile No. 8986181211 of Sri Kumar at 11.27 A.M. on 24.11.13. You pretended to be the P.A. of the Hon'ble Inspecting Judge and threatened Sri Rajiv Kumar, J.M. to follow the dictate of S.D.J.M., Sherghati and not to act against him.

The aforesaid act of yours is indicative of gross judicial impropriety, lack of integrity and an act unbecoming of a Judicial Officer.

Charge V: You, Ram Sajjan, while functioning as S.D.J.M., Sherghati from 18.06.2013 to 20.02.2014 (presently under suspension) visited Dr. Rajendra Prasad Singh, Deputy Superintendent, Sub-divisional Hospital, Sherghati in his chamber on 31.07.2013 and inquired about the nurses working in the hospital. You made illegal and unethical demand of sending the nurses at your residence for illicit purpose. After one week you again visited Dr. Rajendra



Prasad Singh in the hospital and repeated your old demand and continued pressure regarding the aforesaid demand and further demanded Rs. 25,000/- as well as a vehicle for your use. On refusal of the aforesaid demands you threatened Dr. Singh to put him behind the bar. On 15.11.2013 you threatened Dr. Rajendra Prasad Singh through your Mobile No. 7759844781 on his Mobile No. 9431224615 for non-fulfillment of your demand. On 05.11.2013 at about 4.00 P.M. by sending some hooligans you threatened Dr. Rajendra Prasad Singh to implicate him in the case of S.C./S.T. (Prevention of Atrocities) Act.

The aforesaid act of yours is indicative of your involvement in immoral acts, gross judicial impropriety and unbecoming of a Judicial Officer.

Charge VI: You, Ram Sajjan, while functioning as S.D.J.M., Sherghati from 18.06.2013 to 22.02.2014 (presently under suspension) lodged an F.I.R. in Amas Police Station under S.C./S.T. on 15.02.2014 against Dr. Rajendra Prasad Singh, a doctor working in Sub-divisional Hospital, Sherghati and Sri Nitish Kumar, J.M. Ist Class, Sherghati to harass and take revenge from them. You lodged the said F.I.R. against Dr, Prasad due to your grudge against him for non-fulfillment of your unethical and immoral demand of supply of nurses for illicit purpose at your residence. You implicated the name of Sri Nitish Kumar also in the F.I.R. because of him being the friend of Dr. Rajendra Prasad Singh. The lodgment of false F.I.R. against Dr. Rajendra Prasad Singh and Sri Nitish Kumar got strong public reaction leading to demonstration on roads which were published in leading News papers of the State.

Your above conduct is indicative of gross judicial impropriety, lack of integrity and unbecoming of a



Judicial Officer.

Charge VII: You Ram Sajjan, while functioning as S.D.J.M., Sherghati from 18.06.2013 to 22.02.2014 (presently under suspension) granted bail to the accused persons in the following cases for extraneous consideration discarding the judicial propriety:

1. You granted bail to the sole accused in Gurua P.S. Case No. 25/13 u/s 406 of I.P.C. and 7 of E.C. Act though there was specific allegation of selling entire articles in the black market, lifted from the godown of State Food Corporation, on the pretext that there is no specific allegation against the accused as well as taking into account his custody, which was four days only.

2. You granted bail to the accused persons in Imamganj P.S. Case No. 43/13 u/s 406, 409, 420/34 of I.P.C. on the same day of their surrender itself i.e. on 29.06.2013 during pendency of their anticipatory bail petition Nos. 756/13 and 810/13 filed before the Sessions Judge, Gaya on behalf of accused Rajeev Ranjan Singh, Mukhiya and Dilip Kumar, Panchayat Rojgar Sevak.

3. You granted bail to the accused Muneshar in Sherghati P.S. Case No. 309/13 instituted u/s 307 and other allied Sections of the I.P.C. and Sec. 3(i)(x) of the S.C./S.T. (Prevention of Atrocities) Act against whom there is specific and direct allegation of assaulting the informant with Bhujali in his left panjra, causing serious injury. His anticipatory bail was rejected vide A.B.P. No. 1666/13 on 21.08.2013 by the Court of Sessions Judge, Gaya.

4. You rejected the bail petition of one Suresh Halwai on 29.8. 2013 in Sherghati P.S. Case No. 354/13 u/s 341, 323, 504, 506/34 IPC despite the fact that the accused was granted anticipatory bail by the Court of Sessions Judge,



Gaya on 24.8.2013 and a copy of order was received in the Court of S.D.J.M., Sherghati on 27.8.2013.

5. You allowed bail to all the seven accused persons in Imamganj P.S. Case No. 86/13 instituted u/s 341, 323, 504, 506, 498(A), 354(A) and 327 of IPC filed by one helpless, childless, widow lady Asha Devi against her in-laws, who after death of her husband drove her out from her matrimonial house after assaulting her and forcibly occupied her house and land, on the date of their surrender itself, though the anticipatory bail petitions filed before the Sessions Court, Gaya on their behalf were pending for hearing.

6. You granted bail to the sole accused Pradip Kumar in Imamganj P.S. Case No. 81/12 instituted u/s 47(A) of the Excise Act, while his anticipatory bail petition No. 2201/12 was pending in the Court of Sessions Judge, Gaya.

7. You granted bail to all the three accused persons on the next day of their surrender, in Barachatty (Mohanpur) P.S. Case No. 292/13 instituted u/s 307 and other allied Section in spite of specific allegation of brutal assault on the head and other parts of body of the informant with rod, khanti and garasa causing bleeding injury and also allegation of causing serious injury to the inmates of the house of the informant.

8. While considering two bail applications filed in connection with Sherghati (Dobhi) P.S. Case No. 37/13 instituted u/s 341, 323, 353, 504, 506 and 379/34 of IPC and Section 3(i)(x) of the S.C./S.T. (Prevention of Atrocities) Act, you applied double standard and granted bail to one accused Purushottam Kuamr Singh and Amit Singh on the basis of compromise but you refused the bail of another lady/accused, Sheela Devi holding that the offence u/s 379



IPC is serious in nature and Section 3(i)(x) S.C./S.T. (Prevention of Atrocities) Act is triable by Special Court.

9. You granted bail to the accused persons in Kothi P.S. Case No. 59/13 instituted u/s 420, 467, 468, 471 and 474 IPC on 20.12.2013, the date of their surrender itself though there is serious allegation against them that they got themselves appointed as teachers in school on the basis of forged documents and the anticipatory bail petitions filed on their behalf on 17.12.2013, in the Court of Sessions Judge, Gaya vide ABP No. 2528/13 and ABP No. 2601/13 were fixed for hearing on 7.1.2014, awaiting the case diary for verification of authenticity and genuineness of the letter showing marks sheet.

10. You granted bail to the main accused Ram Vijay Moch in Barachatty (Mohanpur) P.S. Case No. 232/13 instituted u/s 7 of the E.C. Act on 2.7.2013, the date of surrender despite the serious allegation against the accused for committing grievous irregularities and also despite the fact that his anticipatory bail petition filed before the Sessions Judge, Gaya vide A.B.P. No. 1289/13 was pending in which the date was fixed for 12.7.2013 but suddenly withdrawn on 2.7.2013.

11. You applied double standard in Amas P.S. Case No. 66/13 instituted u/s 147, 148, 149, 341, 323, 324, 325 and 307 IPC by refusing bail of one accused Israil Khan as you have granted bail to other ten accused persons in this case (except this one) though the allegation against all the accused persons was one and the same.

12. You remanded one of the accused namely, Satyamjee @ Commando in Raushanjganj P.S. Case No. 54/2008 on 19.11.2013 on plain paper only without any case record, though the case was already transferred to the Court



of Sri Rajeev Kumar, Judicial Magistrate Ist Class, Sherghati and the Court of Sri Rajeev Kumar was present and very much working on the said date in the Court.

The aforesaid acts of yours are indicative of extraneous consideration, gross judicial impropriety, lack of integrity and an act unbecoming of a Judicial Officer.”

4. The Enquiry Officer found one part of Charge No. I, i.e. use of un-parliamentary language not proved and all other charges were found to be proved. On the basis of such report, it was decided to issue a second show cause notice along with an order to supply a copy of the enquiry report. The officer replied to the said show cause. The Standing Committee of the High Court considered the reply submitted and recommended the punishment of removal of the officer from service, which decision was approved by the Full Court on 23rd of February, 2015.

5. On the basis of recommendation of the High Court the order of dismissal was issued by the State Government.

6. Learned counsel for the petitioner has vehemently argued that the Enquiry Officer was the then District and Sessions Judge, Patna, who was earlier the Registrar General of the High Court when the memo of charge was served upon the petitioner under his signature. Therefore, he could not have been appointed as the Enquiry Officer. It is also contended that a copy of second show cause notice



was served upon the petitioner by the District and Sessions Judge, Patna who was none else the Enquiry Officer, therefore, serving of second show cause notice legally is not tenable.

7. A perusal of the counter affidavit filed on behalf of the High Court shows that the decision to issue charge sheet, memo of charges was taken by the Standing Committee in its meeting held on 5th of February, 2014. It was resolved to direct the petitioner to submit his reply within a period of two weeks. Therefore, the issuance of memo of charges against the officer under the signature of the then Registrar General is an administrative act to give effect to the order passed for issuance of charge sheet approved by the Standing Committee. When the Registrar General signs the memo of charges, he does as a delegatee of the High Court and not in his individual capacity. Therefore, the mere fact that the memo of charge was signed by the then Registrar General who was subsequently conducted enquiry as District and Sessions Judge, Patna cannot be said to be an action which is vitiated in law.

8. The show cause notice was served to the petitioner through communication sent by the then District and Sessions Judge, Patna on 8th of December, 2014 (Annexure-11). The communication itself says that the “Hon’ble Court having considered the inquiry report submitted by the Enquiry Officer in the matter of Departmental



Proceeding initiated against you, have been pleased to order to furnish a copy of the inquiry report and to issue a show cause notice.”

9. Still further in the counter affidavit there is a reference to the decision of the Standing Committee held on 25th of November, 2014 whereby it was resolved to issue second show cause notice to the petitioner. Such decision of the Standing Committee was communicated by the Registrar General to the District & Sessions Judge, Patna on 3rd/5th of December, 2014 (Annexure-B). Such communication reads as under :-

“From

Registrar General
Patna High Court, Patna.

To

The District & Sessions Judge,
Patna.

Sir,

I am directed to say that the Hon’ble Court having considered the enquiry report submitted by the Enquiry Officer in the matter of departmental proceeding initiate against Sri Ram Sajjan, the then Sub-Divisional Judicial Magistrate, Sherghati, at present under suspension with head quarters at Patna under the Court’s Memorandum bearing Memo No. 6767/2014/Legal Cell dated 12.2.2014 and Memo No. 16340/2014/Legal Cell dated 07.4.2014, have been pleased to order to furnish a copy of the enquiry report to Sri Ram Sajjan and to issue a show cause notice why he should not be held guilty of the charges proved against him and why he should not be



suitably punished for the guilt proved against him.

I am, therefore, directed to send herewith a copy of the enquiry report and to request you to furnish the same to Sri Ram Sajjan, the then Sub-Divisional Judicial Magistrate, Sherghati, at present under suspension with head quarters at Patna an to issue show cause notice to him with a direction to submit his reply to the show notice within fifteen days from the date of the receipt of the same for consideration of the Hon'ble Court.

The reply of the officer may be sent to this Court soon as the same is submitted.

Yours faithfully,
Sd/-03.12.2014
Registrar General

Encl: As above (20 sheets)"

10. It is in pursuance of such direction, the District & Sessions Judge, Patna served a copy of the enquiry report to the petitioner. Such proceedings would show that the role of the District and Sessions Judge, Patna who was the Enquiry Officer was not more than that of a post office. Therefore, it cannot be said that the second show cause notice was served upon the petitioner by the enquiry officer, which may vitiate the proceedings.

11. The last argument raised by the learned counsel for the petitioner is that the petitioner has submitted a detailed reply to the second show cause but the same has been rejected by the Standing Committee without recording any reason. Even the Full Court which



has approved the decision of the Standing Committee has also not recorded any reason. The issue as to whether, detailed reasons are required to be recorded in such like matters has been examined in Registrar General, High Court of Patna vs. Pandey Gajendra Prasad and others [(2012) 6 SCC 357]. It has been held that it is the collective decision of the High Court, consisting of the Constitutional functionaries, therefore, the mere fact that the reasons are not recorded is not sufficient to find fault with the order of punishment. In the aforesaid decision the Hon'ble Supreme Court held as follows :

“17. According to the Division Bench, both the orders passed by the first respondent being purely discretionary in terms of his statutory powers, did not warrant any disciplinary action against him on the ground of judicial indiscretion or misconduct. We are constrained to observe that the Division Bench has failed to bear in mind the parameters laid down in a catena of decisions of this Court while dealing with the collective decision of the Full Court on the administrative side. It is evident that the Division Bench dealt with the matter as if it was exercising appellate powers over the decision of a Subordinate Court, granting or refusing bail, and in the process, overstepped its jurisdiction under Article 226 of the Constitution.

18. It is trite that the scope of judicial review, under Article 226 of the Constitution, of an order of punishment passed in departmental proceedings, is extremely limited. While exercising such jurisdiction, interference with the decision of the departmental authorities is permitted, if such authority has held the proceedings in violation of the principles of natural



justice or in violation of statutory regulations prescribing the mode of such enquiry or if the decision of the authority is vitiated by considerations extraneous to the evidence on the merits of the case, or if the conclusion reached by the authority, on the face of it, is wholly arbitrary or capricious that no reasonable person could have arrived at such a conclusion, or grounds very similar to the above.(See Shashikant S. Patil).

22. In the present case, the recommendation of the Standing Committee to dismiss the first respondent from service was based on the findings in the enquiry report submitted by the enquiry officer pursuant to the departmental enquiry; his reply to the show-cause notice; his ACR and other materials placed before it. The recommendation of the Standing Committee was approved and ratified by the Full Court.”

12. In fact the report of the Enquiry Officer is detailed report giving reasons as to why the chargers stand proved. It is said report which has been accepted by the Standing Committee at an earlier stage and later approved by the Full Court.

13. In view of the said fact we do not find any illegality in the decision making process which may warrant interference in the writ jurisdiction of this Court.

14. At this stage learned counsel for the petitioner raised an argument that the punishment of dismissal is harsh and disproportionate to the misconduct and it should be reduced as the petitioner is already 56 years of age.

15. We do not find that the punishment of dismissal is



shockingly disproportionate to the misconduct which may warrant this Court to examine the quantum of punishment. A Judicial Officer is expected to be above board. The allegations against the petitioner are serious which leads to questionable integrity and competence of the petitioner to act as a Judicial Officer. Therefore, we do not find that it is a fit case for interference in the quantum of punishment as well.

16. The writ petition accordingly stands dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Chandran/Ibrar

AFR/NAFR	AFR
CAV DATE	N.A.
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