

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2832 of 2014

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Navin Kumar Singh, S/o Sri Badri Narayan Singh, Resident of Village- Pahsara,
P.S.- Naokothi, District – Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Joint Secretary to the Government, General Administration Department, Bihar, Patna.
3. The Principal Secretary, Revenue & Land Reforms Department, Bihar, Patna.
4. The Director, Land Acquisition, Bihar, Patna.
5. The District Magistrate, Supaul.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Verma, Sr. Adv. with Mr. Gajanan Arun, Advocate Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25 Mr. Prakritita Sharms, AC to SC-25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 29-09-2016

Heard Mr. Rajiv Kumar Verma, learned senior counsel
appearing for the petitioner and Mr. Sajid Salim Khan, learned
Standing Counsel No.25 for the State.

With the consent of the parties this writ petition has
been heard with a view to its final disposal at this stage itself.

The petitioner is aggrieved by the order bearing Memo
No.5902 dated 11.4.2013, whereby the punishment of withholding
of two annual increments with non-cumulative effect has been
imposed under the orders of the State Government impugned at
Annexure-13 and which order has been confirmed when the review
application preferred by the petitioner was dismissed vide order

dated 6.8.2013 of the State Government impugned at Annexure-15.

The allegation against the petitioner is of being slow in the matter of distribution of compensation in respect of acquisition of land for construction of N.H. 57.

While it is the contention of Mr. Verma, learned senior counsel appearing for the petitioner that neither the petitioner has been found wanting on his discharge of distribution of compensation nor there is any parameter set up rather the petitioner has accelerated the distribution of compensation since after his posting at Supaul on 31.10.2009 which is reflecting from the representation of the petitioner addressed to the Principal Secretary, General Administration Department, Bihar, Patna dated 19.12.2012 present at Annexure-12 which shows that within a span of less than 2 years, he distributed more than double the compensation amount than what the State authorities could do in almost four years. He thus submits that despite the circumstances brought to the notice of the Principal Secretary and there being nothing on record to show that the petitioner was slack on his work, yet the punishment, which is an arbitrary action.

Mr. Verma has also with reference to a judgment reported in **2014(3) PLJR 576 (Hareshwar Kumar Singh vs. The State of Bihar)** submitted that although rule 19 of the Bihar Government Servants (Classification, Control & Appeal) Rules,



2005 (hereinafter referred to as 'the Rules') provides for the procedure for imposing minor penalty but rule 19(1)(b) leaves a discretion for the Disciplinary Authority to follow the exhaustive procedure provided for imposition of major penalty as provided under rule 17. According to Mr. Verma once the disciplinary proceeding has been set in motion by service of charge memo, then there was no turning back for the Disciplinary Authority and he is bound to complete the process as provided under rule 17 of 'the Rules'.

The argument of Mr. Verma has been contested by Mr. Khan, learned Standing Counsel 25 and who with reference to the charge memo impugned at Annexure- 6 has submitted that a cursory glance of the nature of imputation would confirm that no effective step was taken by the petitioner for expediting the distribution of compensation despite an advisory issued by the Chief Minister in the High Level Committee held on 23.9.2009. He thus submits that it is in consideration of the work done by the petitioner that the Disciplinary Authority has been lenient enough to impose minor penalty but that would not condone the default made by the petitioner.

I have heard learned counsel for the parties and I have perused the records. It is not that every time a disciplinary proceeding is set in motion that it has to culminate in a punishment.



Annexure 6 is the charge memo and while Charge No.1 relates to the period 2005-07, the petitioner is yet to be posted at the place in question. A decision is taken in the High Level Committee headed by the Chief Minister on 23.9.2009 to complete the distribution by 31.10.2009 and again the petitioner is yet to be posted. The petitioner was posted at Supaul as a Land Acquisition Officer subsequently and where he joined on 31.10.2009. Meaning thereby it is on the last day of the deadline fixed in the meeting held on 23.9.2009 that the petitioner was posted and is expected not only to ensure the distribution of the compensation at a fast pace thereafter, rather he is also expected to clear the past arrear work left half done by his predecessors. Rather surprisingly these predecessors are not being proceeded rather the petitioner is made a scapegoat for the arrear work that has been left half done for the period prior to his joining. The chart given by the petitioner in his representation before the Principal Secretary placed at Annexure-12 explains it all. The acquisition proceeding was initiated in the year 2005 and from thereafter until the posting of the petitioner on 31.10.2009 i.e. spanning over a period of almost four years, an amount of Rs.10,47,89,701/- was distributed by the officers in the Collectorate of Supaul looking into the matter but it is stated that none of them have been proceeded against. Nobody was even asked as to why there was laxity in the matter. The Chief Minister has



taken a decision on 23.9.2009 that the entire compensation should be paid by 31.10.2009 yet no emergent action is taken by the district authorities nor anybody is proceeded for failure in expeditious disposal. The mantle falls on the petitioner when he joins on 31.10.2009 and over a span of next one 1 year and 10 months, he has distributed compensation to the tune of Rs.23,46,25,620/- which is more than double the amount what has been distributed in the past four years. It is rather surprising that the petitioner was show caused despite such position and even when no parameter was set up by the State as to the number of compensation case that required to be disposed of by the petitioner. According to the petitioner he has distributed the compensation to the best of his ability and that since after his transfer, his successor in the office, in the next one year, has distributed only an amount of Rs.10,87,60,794/- i.e. less than half than what the petitioner has distributed in 1 year and 10 months.

The facts on record are enough to confirm that the petitioner has been singled out to be proceeded and punished. Perhaps the District Magistrate did realize that the proceeding initiated is unjust and which is reflected from his report present at Annexure-9. One again fails to understand that once the report of the District Magistrate, Supaul supports the conduct of the petitioner in expediting the land acquisition work where was the

question of imposition of penalty.

An initiation of disciplinary proceeding is a serious matter and not a routine affair and the object behind is, for reaching a conclusion as to whether or not, the action complained of against a delinquent, would come within the confines of a 'misconduct' warranting a punishment. A casual aberration or a minor lapse in duty or not rising to the expectations on its own, with no serious repercussions, would normally not be sufficient to invite a punishment unless the action complained falls within the confines of the term 'misconduct', necessitating an imposition of penalty. The consequences flowing from such action has to be that much serious, irreversible and not within the conduct expected of a public servant. Reference is made to the judgment of the Supreme Court since reported in **(1979)2 SCC 286 (Union of India vs. J. Ahmad)**.

The explanation given by the petitioner is neither dealt with by the Disciplinary Authority nor is the opinion of the District Magistrate taken note of. The order of punishment is mechanical and suffering from non-application of mind for the petitioner is held guilty of slackness even in absence of any parameter set up as regarding his target or the number of cases he is expected to dispose in a month. The initiation of proceeding resting merely on denouncement with nothing to support the allegation, is a gross case of misuse and abuse of quasi judicial power by the disciplinary

authority and the order imposing punishment is thus a perversity.

For the reasons aforementioned the order bearing Memo No.5902 dated 11.4.2013 passed by the State Government impugned at Anenxure-13 together with the order dated 6.8.2013 impugned at Annexure-15 cannot be upheld and are accordingly quashed and set aside.

The writ petition is allowed.

Let the amount realized from the petitioner be refunded to him within a period of three months from the date of receipt/production of a copy of this judgment.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
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Transmission Date	NA