

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8758 of 2014

=====

Shambhu Hazara Son of Late Ramayan Hazara Resident of village - Semara Parsa,
Police Station - (Sirisiya O.P.) Manuapul, District - West Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The Chief Conservator of Forest, Bihar, Patna
4. The Divisional Forest Officer Cum - Deputy - Director, Valmiki Tiger Project, Division no.2, West Champaran at Bettiah
5. Assistant Conservator of Forest, Valimiki Tiger Project, Division No. 2, West Champaran, at Bettiah

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar No.-7, Adv.

For the Respondent/s : Mr. Subhash Chandra Mishra, SC-16

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 04-08-2017

Heard both sides.

2. The petitioner seeks quashing of the order no. 17 dated 30.01.2014, as contained in Memo No. 145 dated 30.01.2014 (annexure-10) by which the petitioner has been dismissed from the service of Forest Guard.

3. Learned counsel for the petitioner assailed the order of dismissal of the petitioner from the service of Forest Guard on the ground that he was dismissed without holding departmental proceeding, as envisaged under Rule 17 of the Bihar Government Service (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the C.C.A. Rules for the sake of brevity).

4. It is submitted that the State also filed counter



affidavit and stated in para 22 of the counter affidavit that the petitioner did not produce any witness. According to provisions, as contained in Rule 17 of the C.C.A. Rules, 2005, the enquiry officer after perusing the show-cause of the delinquent employee and reading over charge to the delinquent, shall direct the presenting officer to produce evidence against the delinquent employee. It is incumbent on the presenting officer to prove the articles of charge against the delinquent on the basis of the evidence and the documents, but no departmental enquiry was held and the petitioner has been summarily dismissed from service.

5. On the contrary, Mr. Subhash Chandra Mishra learned S.C.-16 very fairly submitted that no departmental proceeding was conducted, but the petitioner has not availed the alternative remedy, as provided under Rule 23 of C.C.A. Rules, 2005.

6. On consideration of the submissions of the parties and on perusal of records, I find that once the Disciplinary authority did not proceed in accordance with C.C.A. Rules, 2005 for inflicting punishment on the delinquent, the alternative remedy provided under Rule 23 of C.C.A. Rules, 2005 is of no help. The petitioner has been dismissed from service without any departmental enquiry. No second show-cause was asked for from the petitioner and therefore, the order of dismissal is palpably illegal and not sustainable. Accordingly, the order no. 17 dated 30.01.2014, as contained in Memo No. 145 dated 30.01.2014 (annexure-10) is set aside and the matter is remitted to the



Disciplinary authority to proceed further in accordance with law. The writ petition is allowed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2017
Transmission Date	NA

