

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20563 of 2010

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Jata Shankar Jha, S/O Sri Chandrabali Jha, R/O Village- Pohaddi, P.S.-Bahera,
District-Darbhanga, At present working as Panchayat Sevak cum Sachiv,
Manigachchi Block, Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar, through its Chief Secretary, Bihar, Patna.
2. The Director, Panchayat Raj, Bihar, Patna.
3. The Commissioner, Darbhanga Division, Darbhanga.
4. The Collector, Darbhanga.
5. The District Panchayati Raj Officer, Darbhanga.
6. The Sub-Divisional Officer, Sadar, Darbhanga.
7. The Development Officer, Gaura Bauram Block, Darbhanga.
8. The Block Development Officer, Manigachchi Block, Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kaushalesh Choudhary, Advocate
For the Respondent/s : Mr. Ajay Bihari Sinha, GA-8
Mr. Neeraj Raj, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-05-2017

Heard Mr. Kaushalesh Choudhary, learned counsel
appearing for the petitioner and Mr. Ajay Bihari Sinha, learned
Government Advocate No.8 for the State.

In the nature of the order which this Court proposes to
pass it would not require to enter into the merits of the case.

Suffice it to say that the petitioner is aggrieved by the
order bearing Memo No.1839 dated 30.10.2006, whereby the
petitioner has been reverted to the lower pay scale and his annual
increments have been withheld with cumulative effect. In other
words, the petitioner has been visited with the major punishment.



The order of punishment passed by the District Magistrate, Darbhanga is impugned at Annexure-1 and which is affirmed by the Appellate Authority i.e. the Commissioner, Darbhanga Division, Darbhanga vide order passed on 21.7.2009, a copy of which is impugned at Annexure-2 to the writ petition.

The allegation against the petitioner as per the charge impugned at Annexure-4, is that he was a party to the irregularities in the matter of appointment of *Shiksha Mitra*. The other charge levelled against the petitioner is that he did not hand over the charge to his successor in office despite his transfer. The petitioner at the relevant time was holding the post of Panchayat Sevak –cum- Panchayat Secretary, Gram Panchayat, Kasraur Basauli in the district of Darbhanga.

The matter went to enquiry. The petitioner filed his reply to the charge before the Enquiry Officer present at Annexure-6 and the enquiry was held by the Deputy Collector, Land Reforms as an Enquiry Officer and while the Enquiry Officer has upheld the charge against the petitioner to his participation in the alleged irregularities in the appointment of *Shiksha Mitra*, the other charge was dropped.

According to the petitioner, the enquiry report was not handed over to the petitioner in terms of rule 18 of the Bihar Government Servants (Classification, Control and Appeal) Rules,



2005 (hereinafter referred to as 'the Rules') nor any show cause was asked by the District Magistrate, Darbhanga upon submission of the enquiry report as mandated under 'the Rules'.

It is the submission of Mr. Choudhary, learned counsel appearing for the petitioner that straightaway on submission of the enquiry report by the Enquiry Officer before the Disciplinary Authority the impugned order was passed by the District Magistrate impugned at Annexure-1 and affirmed by the Appellate Authority vide Annexure-2.

The argument of statutory violation of rule 18 of 'the Rules' has not been contested by the respondents. In other words, the procedure is infracted.

Rule 18 of 'the Rules' does mandate that the Disciplinary Authority shall hand over the copy of the enquiry report to the delinquent for his comments which mandatory procedure has not been followed.

The petitioner having been visited with the major punishment the order impugned suffers from such serious statutory violation and cannot be upheld and in consequence the order of punishment impugned at Annexure-1 passed by the District Magistrate, Darbhanga along with its affirmation by the Appellate Authority vide Annexure-2 cannot be upheld and are accordingly



quashed and set aside.

The writ petition is allowed and the matter is remitted to the District Magistrate, Darbhanga for proceeding afresh in the matter, if so advised, from the stage of handing over the enquiry report to the petitioner in terms of rule 18 of ‘the Rules’ and for disposal of the proceedings afresh in accordance with law.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01-06-2017
Transmission Date	NA

