

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5961 of 2011

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Prabhat Kumar Pankaj, son of Late Jagdish Thakur, resident of at Jaynagar, P.S.
Jaynagar, District - Madhubani

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary-cum-Commissioner, Human Resources Development
Department of Bihar, Patna
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The Director Administration-cum-Joint Secretary, Human Resources
Development Department of Bihar, Patna
5. The Regional Deputy Director of Education, Darbhanga Division, Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh, Advocate

For the Respondent/s : Mr. A.Ujjwal SC-4

Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 10-08-2017

Petitioner, who at the relevant time was working as District Superintendent, Education, Samastipur, was issued with a charge-sheet wherein the main allegation against the petitioner was with regard to grant of illegal promotion to about 52 Assistant Teachers contrary to requirement of Rule. A departmental enquiry was conducted and, based on the enquiry report submitted, a show cause notice Annexure 18, dated 17.6.2010, was issued to the petitioner. Petitioner vide Annexure 19 on 26.7.2010 submitted an explanation in detail to the findings of the Enquiry Officer, indicated that he was not alone responsible for grant of promotion to the employees concerned. He was only a member of three member



committee which consisted of the District Magistrate and other officers and five more officers and it was a collective decision of the six officers which formed the committee for promotion. The petitioner cannot be singled out and held responsible.

That apart, it transpires now from the writ application, as is evident from Annexure 22 to the supplementary affidavit, that with regard to promotion in question, certain writ petitions were also filed before this Court being C.W.J.C. No.10941 of 2011 and vide order dated 7.8.2013, challenge to the procedure followed for promotion has been rejected by this Court. However, after the show cause was filed by the petitioner vide Annexure 19, the disciplinary authority passed the impugned order on 19.1.2011 vide Annexure 20 and while doing so the authority did not advert to consider any of the grounds and explanation submitted by the petitioner in his show cause. Except for narrating the fact with regard to issuance of charge-sheet, conduct of the departmental enquiry, submission of enquiry report and the explanation submitted by the petitioner, without application of mind, without recording any reasons, the impugned action has been taken. This by itself is sufficient enough to quash the impugned action and remand the matter back to the disciplinary authority to proceed to take action afresh from the stage of issuance of show cause notice, Annexure 18.



The application is allowed and the order impugned Annexure 20 dated 19.1.2011 quashed. The disciplinary authority is directed to take note of the explanation of the petitioner, the fact about withholding of the departmental proceeding by this Court on 7.8.2013 in C.W.J.C. No.10941 of 2011 and thereafter take a decision afresh by passing a speaking order.

On the petitioner filing a certified copy of the order along with all relevant materials as indicated hereinabove along with a copy of the order passed in C.W.J.C. No.10941 of 2011, the disciplinary authority shall advert to consider all these issues and while considering the explanation submitted by the petitioner and all other incidental issues involved therein by a speaking order shall decide the question of imposing the punishment afresh in accordance with law within 90 days.

(Rajendra Menon, CJ)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.8.2017
Transmission Date	N/A

