IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1408 of 2015
In
Civil Writ Jurisdiction Case No. 18285 of 2008

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Yogendra Prasad Bhakta Son of Late Chhatradhari Bhagat, Resident of Village - Haribella, P.S. - Bathnaha, District - Sitamarhi.

.... Appellant/s

Versus

1. The State of Bihar, through the Secretary Department of Revenue and Land Reforms, Government of Bihar, Patna. null null
2. The Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffarpur.
4. The Collector, Sitamarhi.
5. The Circle Officer, Balsand, Sitamarhi.
6. The Circle Officer, Parihar, Sitamarhi.
7. The Circle Officer, Sursand, Sitamarhi.
8. The Circle Officr, Bathnaha, Sitamarhi.
9. The Circle Officer, Mejarganj, Sitamarhi.
10. The Executive Magistrate, Sitamarhi.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar Mishra, Advocate
Mr. Varun Kumar, Advocate

For the State : Mr. Anshuman Singh, AC to AG

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

3 24-08-2017 Having heard learned counsel for the parties, we find that the punishment of stoppage of two increments with cumulative effect has been imposed upon the appellant apart from the punishment of non-payment of salary for the period of suspension.

So far as the non-payment of salary for the period of suspension is concerned, the learned Writ Court has found that this has been done without issuing notice and following the procedure in terms of Rule 97 (3) of the Bihar Service Code for imposition of punishment and quashed that part of the impugned order. We see no error in the same.

However, the grievance of the appellant is limited to non-interference with the impugned order by the learned Writ Court with regard to imposing punishment of stoppage of two increments with cumulative effect.

It is argued by learned counsel for the appellant that the said punishment is a major punishment and cannot be imposed without following the procedure contemplated in Rule 17 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and in view of the law laid down by the Supreme Court in the case of **Kulwant Singh Gill Vs. State of Punjab: 1991 Supp (1) SCC 504**, the same is unsustainable.

Even though learned counsel for the State has tried to argue that the punishment has been imposed after issuing show cause notice to the appellants, considering the fact that the statutory rule for imposing a major punishment has not been followed and in the case of **Kulwant Singh Gill** (supra) without following the statutory rule stoppage of increment with cumulative effect is classified as major punishment, the same having been done without following the statutory requirement, we quash the order dated 2.7.2015 passed by the learned Writ Court dismissing the writ petition with regard to non-interference with the punishment of stoppage of two increments with cumulative effect. We also quash the order dated 18th April, 2006, Annexure-8 to the writ petition imposing punishment of stoppage of two increments with cumulative effect.

The appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

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