

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8876 of 2011

=====

Shridhar Prasad, Son of Sri Ram Vilas Sah, Resident of Mohalla - Satpura Colony, P.S.- Kazi Mohammadpur, District - Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Road Construction Department, Govt. of Bihar, Patna
3. The Joint Secretary, Road Construction Department, Govt. of Bihar, Patna
4. The Deputy Secretary (VIGILANCE), Road Construction Department, Bihar, Patna
5. The Deputy Secretary, Road Construction Department, Bihar, Patna

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Singh, Advocate
		Mr. Dewendra Narayan Singh, Advocate
For the Respondent/s	:	Mr. Subodh Kumar, A.C. to S.C. 20

=====

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 30-08-2017

Challenging the order Annexure-1 dated 03.02.2011 imposing upon the petitioner punishment of reducing his pension by 50 per cent permanently and confirming the period of suspension, this writ petition has been filed.

Petitioner was working as Executive Engineer in the Muzaffarpur Regional Development Authority and on account of various nine allegations levelled against him, a charge-sheet (Annexure-2) was issued to him on 12.02.2008. His reply to the charge-sheet being unsatisfactory, inquiry was constituted under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, a Conducting Officer was appointed and the Conducting Officer submitted his



report (Annexure-4) on 18.06.2007 holding that none of the nine allegations levelled against the petitioner are proved and exonerated him of all the charges. However, the Disciplinary Authority, disagreeing with the finding of the Inquiry Officer, recorded his own finding of guilt, as is contained in Annexure-6 dated 29.01.2010 and thereafter issued a second show-cause notice asking the petitioner as to why he should not be punished and thereafter taking the explanation of the petitioner (Annexure-7) dated 16.02.2010 to be his reply to the second show-cause notice, the impugned action has been taken.

However, before disagreeing with the finding of the Inquiry Officer and recording his own finding of guilt, as is contained in Annexure-6 dated 29.01.2010, no notice of disagreement was granted to the petitioner and before holding him guilty after disagreeing with the finding of the Inquiry Officer the principles of law laid down by the Supreme Court in the case of **Punjab National Bank Vs. Kunj Behari Misra- (1998) 7 SCC 84** and **S.P. Malhotra Vs. Punjab National Bank and others- (2013) 7 SCC 251** has not been followed.

That being so, on this ground alone this petition has to be allowed as the Disciplinary Authority has followed a procedure which is not permissible under law. If the



Disciplinary Authority wanted to disagree with the finding of the Inquiry Officer and record his own finding, it was incumbent upon the Disciplinary Authority to issue a notice to the petitioner, record his disagreement with the finding of the Inquiry Officer, reasons for recording a finding of guilt, hear the petitioner and thereafter record a finding of guilt and then issue the punishment. This process having not been followed, the law laid down by the Supreme Court in the cases of **Punjab National Bank Vs. Kunj Behari Misra- (1998) 7 SCC 84** and **S.P. Malhotra Vs. Punjab National Bank and others- (2013) 7 SCC 251** (supra) having been violated, this writ petition is allowed and the impugned order Annexure-1 dated 03.02.2011 quashed.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	05.09.2017
Transmission Date	

