

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4451 of 2011

Ashwani Kumar Verma, S/o Late Bhagwat Prasad Verma, R/o Mohalla- Nai
Godown Panjabi Colony, P.S.- Kotwali, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. Secretary, Cooperative Department, Bihar, Patna
3. The Registrar, Cooperative Society, Bihar, Patna
4. Joint Registrar, Cooperative Societies, Bihar, Patna
5. District Cooperative Officer, Gaya
6. Chief Private Secretary, Cooperative Department, Bihar, Patna
7. The Managing Director, Bihar State Cooperative Bank, Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 13-09-2017

Petitioner has filed this writ petition challenging the orders passed by the Disciplinary Authority vide Annexure-4 on 29.09.2005 withholding two annual grade increments of the petitioner with cumulative effect and the order of the Appellate Authority dated 26.02.2009 (Annexure-6).

Facts in brief goes to show that the petitioner was appointed and working as a Cooperative Extension Officer, Gaya when a charge-sheet Annexure-1 dated 21.07.2004 was issued to him and in the charge-sheet issued to him various allegations were levelled with regard to recovery of loan and a departmental inquiry was conducted. An Inquiry Officer



submitted his report (Annexure-3) even though held the petitioner guilty but found that a sympathetic view can be taken as there was no case of misappropriation.

However, grievance of the petitioner is that without issuing a show-cause notice, as contemplated under Rule 18(3) of the Bihar Civil Services (Classification, Control and Appeal) Rules, 2005 and without forwarding to him the Inquiry Report, the impugned action has been taken and on this ground alone it is argued that the entire action stands vitiated.

Even though on this ground learned counsel for the State refuted the contention by holding that non-supply of the inquiry report and the second show-cause notice has not caused any prejudice to the petitioner, the fact remains that even in case of inflicting minor punishment, statutory procedure should be followed.

Sub Rule 3 of Rule 18 mandates issuance of show-cause notice along with copy of the Inquiry Report to the delinquent employee and granting him 15 days time to submit his say in the matter. Admittedly, in this case, this statutory requirement has been violated and as stoppage of increment with cumulative effect is a major punishment as laid down by the Supreme Court in the case of **Kulwant Singh Gill Vs. State**



of Punjab-1991 Supp (1) SCC 504, there being a statutory procedural violation, the entire action stands vitiated and for such a violation, which is a statutory violation, prejudice caused is deemed to have been effected.

In view of the law laid down by the Supreme Court in the case of **State Bank of Patiala & Ors. Vs. S.K. Sharma-** (1996) 3 SCC 364 and on this ground alone a case being made out, this petition is allowed, order impugned Annexure-4 dated 29.09.2005 and the order of the Appellate Authority dated 26.02.2009 (Annexure-6) are quashed. Liberty shall be available to the respondents to proceed with the inquiry from the stage of receipt of the Inquiry Report.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	16.09.2017
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