

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8298 of 2014

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Ram Lagan Ram Son of Late Ganesh Ram Resident of Village- Alisherpur, P.O.- Gihuli, P.S.- Patahin, District- East Champaran at present the then Clerk, District Certificate Section, Motihari and present Clerk, Block Office, Turkaulia, East Champaran, Motihari (Under dismissal)

.... Petitioner/s

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna
3. The Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna
4. The Commissioner, Tirhut Division, Muzaffarpur
5. The District Magistrate, East Champaran, Motihari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bishnu Kant Dubey, Adv.
For the Respondent/s : Mrs. Priya Gupta AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL JUDGMENT
Date: 18-08-2017

Heard learned counsel for the petitioner and learned A.C.
to G.A.-7.

2. The petitioner has challenged the order dated 28.03.2014 as contained in Memo No. 96 (Annexure-4) by which the Collector, East Champaran, Motihari dismissed the service of the petitioner.

3. Mr. Bishnu Kant Dubey learned counsel for the petitioner submits that the petitioner was suspended on being caught red-handed while accepting bribe and his suspension was revoked. The petitioner was posted as Clerk in District Certificate Office,



Motihari. District Certificate Officer, East Champaran was directed to prepare the articles of charge against the petitioner, but District Certificate officer did not formulate the charge. The District Magistrate, East Champaran at Motihari vide order dated 24.01.2014 served articles of charge to the petitioner and directed to file show-cause. The petitioner, in pursuance thereof, filed his show-cause on 29.01.2014, but the Collector, East Champaran Motihari without holding any enquiry, as envisaged under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 dismissed the petitioner from service. It is further submitted that when charges were framed against the petitioner, he filed C.W.J.C. No. 4707/14 for stay of the departmental proceeding in view of facts that on the same set of evidence, a criminal case is also going on against the petitioner. It is submitted that no procedure as contained in Rule 17 of the CCA Rules, 2005, is adopted and no enquiry was held, but the petitioner was summarily dismissed from the service, therefore, the order is bad.

4. Learned counsel for the State submitted that of course, the enquiry was not held in accordance with law, but the petitioner has got alternative remedy under Rule 23 of the CCA Rules, 2005 to prefer appeal before the competent authority, but I find that once the punishment being inflicted without holding any departmental enquiry



as prescribed under CCA Rules, 2005, the alternative remedy is of no use. The petitioner was dismissed summarily from his service without holding any departmental enquiry.

5. It appears from the order dated 28.03.2014 itself that no departmental enquiry was held, therefore, I find that the order is not sustainable. Accordingly, the order dated 28.03.2014, as contained in Memo No. 96 (Annexure-4) is set aside and the matter is remitted to the District Magistrate, East Champaran, Motihari to proceed afresh in accordance with law against the petitioner. Thus, the writ petition is allowed.

(Prabhat Kumar Jha, J.)

Vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.09.2017
Transmission Date	NA

