

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2809 of 2011

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1. Sri Krishna Singh, son of Let Ram Eqbal Singh Ashoiyan, P.S. Madhora, Distt. Chapra

.... Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Saran at Chapra
3. The Collector, Saran at Chapra

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Khurshid Alam, Adv.

For the Respondent/s : Mr. Lalit Kishor, AAG-1

Mr. Ajay Kumar Sharma, A.C. to PAAG 1.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-05-2017

Heard Mr. Md. Naseem Mukhtar, learned counsel on instructions of Mr. Arun Kumar Bhagat, Advocate on Record and Mr. Ajay Kumar Sharma, A.C. to PAAG 1.

The petitioner is aggrieved by the order bearing Memo No.675 dated 9.5.2007 of the District Magistrate, Saran at Chapra as a disciplinary authority whereby he has been visited with the punishment of stoppage of pay and allowances for the period 24.8.1999 to 8.11.2004 by treating it as unauthorized absence. The period however has been counted for the purpose of continuity of service and treated as pensionable. The petitioner has also been given a censure. The order is affirmed by the appellate authority who vide



order bearing Memo No.3992 dated 9.10.2010 has confirmed the punishment. The orders put to challenge are impugned at Annexures-5 and 7 respectively to the writ petition.

The charge framed against the petitioner is quite exhaustively discussed at Annexure-1 to the writ petition and in so far as the punishment in question is concerned, charge No. 5 would be relevant and charges the petitioner of not reporting for duty since after his posting at the Block Office at Jalalpur where he joined on 22.9.1998 but thereafter proceeded on leave on 24.8.1999 and allegedly remained as such until 8.11.2004.

Learned counsel for the petitioner has relied upon the enquiry report, a copy of which is placed at Annexure-3 to the writ petition, to submit that the charge has not been upheld by the Enquiry Officer and who has accepted the version of the petitioner that he was not allowed to mark attendance for all the years but the opinion of the Enquiry Officer has not been accepted by the District Magistrate, who has issued a second show cause notice along with the disagreement note and the reply of the petitioner has not satisfied the District Magistrate which has resulted in the order of punishment impugned at Annexure-5 as confirmed by the appellate authority.

I have heard learned counsel for the parties and I have perused the records. I have already mentioned that the charge memo contains



no less than five allegations against the petitioner, however, he has been punished for the unauthorized absence and although the Enquiry Officer has accepted the version of the petitioner but in absence of any evidence led by the petitioner either before the disciplinary authority or before this Court to support that he was not being allowed to mark his attendance during the period or that he had raised any grievance before any forum as regarding such arbitrariness of the superior authority, I am not persuaded either to accept the explanation given by the petitioner or the opinion the Enquiry Officer rather in the circumstances discussed and the long period of unauthorized absence, I am of the opinion that in the circumstances discussed, the District Magistrate as the disciplinary authority has been rather reasonable in letting the petitioner go with the minimum damage.

This Court not finding reason to interfere with the orders impugned, the writ petition is disposed of.

Bibhash/-

(Jyoti Saran, J)

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