

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11093 of 2014

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Taslim Khan, Son of Late Nayeem Khan, Resident of Mohalla- Satabadi Road,
Aliganj, P.O.- Karimganj, P.S.- Chandauti, District- Gaya Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna
 2. The Deputy Inspector General of Police, Sahabad Region, Dehri on Sone.
 3. The Superintendent of Police, Buxar
 4. The Sub Divisional Police Officer, Buxar
 5. The Conducting Officer- cum- Sub Divisional Police Officer, Dumraon, District-
Buxar
 6. The Inspector of Police-cum-SAO, Nagar Buxar, District- Buxar
- Respondents
- =====

Appearance :

For the Petitioner : Md. Ataul Haque, Advocate
For the Respondent : Mr. Amish Kumar, AC to AAG 8.

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-12-2017

An accident led to lodging of a complaint against the petitioner who was then posted as the Assistant Sub Inspector, Buxar that he had assaulted the driver of the tractor and demanded bribe from him of Rs.5000/- for the said allegation the petitioner was subjected to a proceeding. In the enquiry, the allegationist/ owner of the said tractor submitted his deposition which is Annexure 6 to the writ petition, whereby he has not supported the allegation and as regards the driver he has said that the driver was also not available for deposition or supporting the charges. Enquiry report was submitted stating that no one turned up to substantiate the allegation levelled against the petitioner.

Counsel for the petitioner submits that in absence of any evidence whatsoever the punishment, could not have been inflicted on the petitioner, as no witness had supported the charges. In support of the case, counsel has referred to a decision rendered in case of **Ranvir Kumar Vs. The State of Bihar and others**, reported in **2017(2) BBCJ 63** which has considered the judgment of the constitution bench of the Supreme court, passed in **AIR 1964**



SC 364 (Union of India Vs. H. C. Goel). Paragraph 18 of the judgment of this Court passed in case of Ranvir Kumar is reproduced herein below for ready reference:-

18. In this context I think it proper to put on record the observation of the Constitution Bench in the case of H.C. Goel (supra) relied upon by Mr. Shrivastava more particularly paragraphs 23 and 27 thereof. In the said case the complainant was the Deputy Director and the charge against the petitioner who was an Engineer in the Central Public Works Department was that he attempted to give bribe to the Deputy Director and for which he took out some paper from his wallet which looked like 100 rupees note. It is this piece of evidence which was relied upon in the departmental proceeding. The opinion of the Supreme Court on the issue would squarely apply to the case in hand as noted in paragraphs 23 and 27 and which runs as follows:

“23. That takes us to the merits of the respondent’s contention that the conclusion of the appellant that the third charge framed against the respondent had been proved, is based on no evidence. The learned Attorney General has stressed before us that in dealing with this question, we ought to bear in mind the fact that the appellant is acting with the determination to root out corruption, and so, if it is shown that the view taken by the appellant is a reasonably possible view this Court should not sit in appeal over that decision and seek to decide whether this Court would have taken the same view or not. This contention is no doubt absolutely sound. The only test which we can legitimately apply in dealing with this part of the respondent’s case is, is there any evidence on which a finding can be made against the respondent that charge No.3 was proved against him. In exercising its jurisdiction under Art. 226 on such a plea, the High Court cannot consider the question about the sufficiency or adequacy of evidence in support of a particular conclusion. That is a matter which is within the competence of the authority which deals with the question; but the High Court can and must enquire whether there is any evidence at all in support



of the impugned conclusion. In other words, if the whole of the evidence led in the enquiry is accepted as true, does the conclusion follow that the charge in question is proved against the respondent? This approach will avoid weighing the evidence. It will take the evidence as it stands and only examine whether on that evidence illegally the impugned conclusion follows or not. Applying this test, we are inclined to hold that the respondent's grievance is well founded, because, in our opinion, the finding which is implicit in the appellant's order dismissing the respondent that charge number 3 is proved against him is based on no evidence."

Similar is the position in the instant case, where there is no evidence on record to support the allegations. However, the Enquiry officer has submitted the enquiry report holding the allegations partly proved. On the basis of the enquiry report, the Disciplinary Authority, i.e., the S.P., Buxar has inflicted the petitioner with the punishment of stoppage of increment of one year equivalent to two black marks.

In the facts and circumstances of the case, the impugned order dated 30.12.2011 (Annexure 8), passed by the S.P., Buxar as also the appellate order dated 9.10.2013, passed by the DIG, Sahabad Region, Dehri (Annexure 10) are quashed. Petitioner shall be entitled to the consequential benefits.

The writ petition stands allowed in the aforesaid terms.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
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