

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9696 of 2014

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Jai Prakash Narayan Sinha S/o Late Raghunath Sahay R/o Village Pranpur, P.S-
Belaganj, Distt- Gaya Petitioner

Versus

1. The State of Bihar through the Commissioner, Magadh Division, Gaya.
 2. The Commissioner, Magadh Division, Gaya.
 3. The Deputy Collector, (Establishment), Jehanabad.
 4. The Deputy Development Commissioner, Jehanabad Respondents
- =====

Appearance :

For the Petitioner : Mr. Jagannath Singh, Advocate
Mr. P.K.Sinha, Advocate and
Mr. S.C.Giri, Advocate
For the State : Mr. H.S.Roy, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
Date: 15-01-2018

Heard learned counsel for the petitioner and the State.

2. The petitioner was dismissed from service in relation to some charges while posted as typist cum clerk at Legal Section in the Collectorate, Jehanabad. Charges were that 14 vouchers amounting to Rs.8975/- were placed by him making forged signature of the then District Magistrate, Jehanabad. He was found guilty in the proceedings arising out of the said case which was the subject matter of the writ petition bearing C.W.J.C.No. 11311 of 2005. Said writ petition was disposed of vide order dated 26.4.2011. The petitioner took a plea before this Court in the said proceeding that since the documents had not been furnished to him and owing to non cross examination of the then District Magistrate, Jehanabad, whose signature had been forged by the petitioner on



the vouchers. The petitioner was denied the opportunity to cross examine the said officer as he had not been called in the proceeding. In view of the aforesaid submission, this Court vide order dated 26.4.2011 ordered as follows:-

“Considering the admission in the Counter Affidavit regarding non furnishing of document, non-examination of the then District Magistrate, who denied his signature on the vouchers and non-availability of proper opportunity to the petitioner to defend himself, it is sufficient for holding that the impugned order, dated 26.05.2005 was issued by the District Magistrate, Jehanabad in complete violation of the procedure laid down in Rule 55A of the Civil Service (Classification, Control and Appeal) Rules and Rule 167 of Bihar Board Miscellaneous Rule. The petitioner could not have been terminated from his service in a Departmental Proceeding without following the proper procedure as provided under the Rule. For such reasons I find that the impugned order is fit to be set aside. Accordingly, it is quashed. The matter is remitted back to the District Magistrate, Jehanabad for conducting the Departmental Proceeding afresh. Petitioner, in the meantime, will be allowed to join his service with all consequential benefits till the date the Departmental Proceeding is finally concluded and a proper order is passed. The Departmental Enquiry must be concluded within six months from the date of production / communication of this Order. With the aforesaid observations, this Writ Application is disposed of.”

3. It appears that thereafter the petitioner was proceeded afresh in relation to the said charges, wherein he submitted his reply. This time, as it is evident from his show cause dated



08.10.2012 he took a new plea altogether that the bills/vouchers in question had been changed. Considering the aforesaid submission and in view of the order dated 26.04.2011, passed by this Court the District Magistrate, Jehanabad in the proceedings had given the petitioner an opportunity vide letter dated 18.12.2011 whereby the attested photo copy of vouchers in issue had been supplied to him and he was asked to submit the question which were to be asked from the then District Magistrate, Jehanabad (Sri Arunesh Chawla) whose signatures the petitioner had allegedly forged on the vouchers.

4. The specific stand of the respondents in the counter affidavit is that the petitioner did not submit any explanation. He chose not to avail the opportunity granted to him by letter dated 18.12.2011, Annexure A of the counter affidavit filed in the writ petition. The same is not disputed as no re-joinder has been filed even though counter affidavit has been filed after serving a copy of the same on the petitioner in February, 2015. However, the petitioner had approached this Court subsequent to passing of the second order of punishment by filing C.W.J.C.No. 7155 of 2015 which, in view of limited prayer of the petitioner to file statutory appeal in terms of the Bihar CCA Rules, 2005 before the higher authority, was permitted to be withdrawn vide order dated



09.05.2013 with liberty to the petitioner to file an appeal before the Appellate authority. Having withdrawn the writ petition with the aforesaid liberty, the petitioner preferred appeal before the Commissioner, Magadh Division, Gaya, respondent no. 2 which has been disposed of by a reasoned and speaking order dated 28.03.2014 (Annexure 17), passed by the Appellate authority in Service appeal no. 162 of 2013.

5. Today, again submission is made that the petitioner be given liberty to examine the then District Magistrate, Jehanabad. As noticed above, the petitioner has changed his stand in the proceedings which were conducted after order of this Court dated 26.04.2011, passed on his first writ petition bearing C.W.J.C.No. 11311 of 2005. In the second round of the litigation, he has taken new plea regarding vouchers/bill being changed. It appears that the petitioner has not raised the plea regarding non examination of the then District Magistrate.

6. It is also apparent from the records that the petitioner has chosen not to avail the opportunity given to him in the proceedings vide letter dated 18.12.2011 (Annexure A) to examine the then District Magistrate as noticed above, this Court finds no reason to interfere with the order dated 28.3.2014, passed by the Commissioner, Magadh Division, Gaya.



7. The Appellate authority, in the Service appeal no. 162 of 2013 has passed a detailed and speaking order dated 28.3.2014. The same reveals that oral evidence was also led in support of the charges in presence of the petitioner. The Appellate authority, after considering the entire procedure of passing bills and the fact that witness was also examined in support of the charges, has come to the conclusion that findings of the Enquiry officer and the Disciplinary authority are sustainable, and has accordingly rejected the appeal filed by the petitioner. The comments from the then District Magistrate during whose tenure and in respect of whose signature the allegation of forgery have been levelled against the petitioner were also considered. It may be noted here that the petitioner had chosen not to avail the opportunity to examine the then District Magistrate when opportunity was afforded to him vide letter dated 18.12.2011. Order of the Appellate authority, being well considered and reasoned order also, does not merit any interference.

8. Another submission made by the counsel for the petitioner is that the punishment of dismissal from service is shockingly disproportionate looking to the gravity of the charge.

9. This Court has very limited jurisdiction to interfere with the quantum of punishment. No authority has been produced



in support of the submission made by the petitioner. Punishment order being passed in accordance with law on the findings, this Court is not inclined to interfere with the quantum of punishment.

10. With the aforesaid observations, the writ petition is dismissed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	17.1.2018.
Transmission Date	NA

