IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4736 of 1998

Vinoy Kumar Verma, son of Shri Kamleshwari Prasad Verma, resident of House No.B/74, Police Colony, Anishabad, Police Station- Gardanibagh, Town & District- Patna.

.... Petitioner/s

Versus

1. The Bihar State Food & Civil Supplies Corporation through its Managing Director, Birchand Patel Marg, PS- Kotwali, Town & District- Patna.
2. Managing Director, Bihar State Food and Civil Supplies Corporation.
3. Chief of Claim, Bihar State Food and Civil Supplies Corporation.
4. Chief of Administration, Bihar State Food & Civil Supplies Corporation.
5. Chief of Finance, Bihar State Food and Civil Supplies Corporation.
   Al residing at Birchand Patel Marg, PS- Kotwali, Town & District- Patna.
6. District Manager, Patna (Urban), Bihar State Food and Civil Supplies Corporation, Boring Canal Road, Town and District- Patna.
7. Shri A.K. Dwivedi, Conducting Officer, B.S.F.C., Sone Bhawan, Birchand Patel Marg, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Uma Shankar Prasad, Sr. Adv. with
Mr. Lal Babu Keshari, Adv.

For the Respondent/s : Mr. Shailendra Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 10-05-2018

Heard Mr. Uma Shankar Prasad, learned senior counsel appearing for the petitioner with Mr. Lal Babu Keshari, the Advocate on record and Mr. Shailendra Kumar Singh, learned counsel appearing for the Corporation.

The petitioner is aggrieved by the order of dismissal passed by the Managing Director, Bihar State Food and Civil Supplies Corporation bearing Memo No.2904 dated 12.5.1997 impugned at Annexure 7 to the writ petition. The allegation against the petitioner is of misappropriation of an amount of Rs.9,37,765/-.

The writ petition was heard and admitted vide order passed on 3.5.1999. It was taken up for hearing but was dismissed for default on 5.7.2013. The writ petition has been restored vide order passed on 30.9.2015 in MJC No.4832 of 2014 and has been taken up for hearing at final stage when the parties have been heard.

A copy of the charge is at Annexure 1 and perusal whereof would confirm that no less than 9 charges are facing the petitioner which centre around the failure of the petitioner to account for huge amount of food-grains which reduced to money terms, comes to Rs.9,37,765/- as confirmed from the impugned order. A perusal of the charges would confirm that the go-down of which the petitioner was the Assistant Godown Manager, Musallahpur Hat recorded a shortage of food-grains valued at Rs.1,65,650/- by the internal audit of the Corporation. The Audit also noticed misappropriation of Rs.4,97,225/-. The third financial irregularity noted is of not accounting for the advance of Rs.4,97,406/- taken by the petitioner by way of transport advance. Apart from the failure of the petitioner to account for shortage of food-grains as well as the transportation advance, there are other allegations of not producing the inventory register, stock register, the sale register etc. before the Audit as well as the monthly report, fortnightly report and daily report. The petitioner also failed to produce the lifting report.

The petitioner has filed his reply and has denied the allegations. According to him, there was no shortage rather it is a calculation mistake. As regarding misappropriation of Rs.4,97,225/- he simply submits that the allegation is false. As to the other allegation of advance he has stated that it was spent on connected activities.

The Enquiry Officer has given his report, a copy of which is at Annexure 5. The report of the Enquiry Officer to the charges is concluded in his opinion where he states that although the petitioner has set up a defence against each charge but has failed to support his defence by any substantive evidence. Even before this Court the petitioner has failed to vindicate his stand regarding the falsity in the allegation of shortage in godown. This Court noticed that though specific statement has been given by the petitioner to deny charge no.1 which is in respect of shortage found in the godown, on query made, learned senior counsel appearing for the petitioner could not support the stand of the petitioner by any evidence of substantive character which would be persuasive of the stand taken by the petitioner.

No doubt the proceeding is resting on Audit Report, a copy of which is enclosed at Annexure 8 but then it is not the stand of the petitioner that the shortage noticed is baseless rather he has gone ahead to give explanation for the shortage but unfortunately he has not supported his stand by cogent evidence. It is also not the case of the petitioner that in absence of relevant registers he was not in a position to give purposeful reply. The petitioner has again himself tried to give the details of sale and the reason of shortage but which explanation is in vacuum and is not resting on any evidence.

While there are other charges facing the petitioner of failure to submit the stock register, inventory register etc. but while the petitioner gives the explanation to the sale made by him in support of his contention that there was no shortage he alongside complains that the relevant registers were taken by the Audit. There again is nothing on record which would support the handing over of those registers by the petitioner. It is obvious that the explanations of the petitioner do not qualify for shifting of opinion expressed by the Enquiry Officer or the order of dismissal passed by the Disciplinary Authority for the allegations are rather serious and the failure of the petitioner to contest the same with the aid of supportive evidence does not persuade this Court to interfere therewith.

The writ petition is dismissed.

(Jyoti Saran, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24-05-2018
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