

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3712 of 2009

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Deepak Kumar, S/o Sri Gajendra Prasad Sah, resident of village-Ratanganj, P.S.-
Sajour, Block-Amarpur and District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar through Secretary, Town Development Department.
2. The District Magistrate, Bhagalpur.
3. The Divisional Commissioner, Bhagalpur Division, Bhagalpur.
4. The Chief Secretary, Municipal Corporation, Bhagalpur.
5. The Executive Officer, Nagar Panchayat, Amarpur, District- Banka.
6. Sri Awinash Kumar @ Abhnash Kumar, Block Development-cum-Executive
Officer, Nagar Panchayat, Amarpur District - Banka.
7. Smt. Renu Devi, Chairman, Nagar Panchayat, Amarpur and Sri Sadanand
Mahto, Vice Chairman of the Said Amarpur Nagar Panchayat, District-Banka.
8. The President and Vice President, Nagar Panchayat Amarpur, District -Banka.
9. The Officer Incharge, Amarpur, P.S.-Amarpur and District at Banka.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Tiwary, Advocate
For the State : Mr. Rakesh Kumar Ranjan, A.C. to G.A.-5
For Nagar Parishad : Mr. Sanjay Mandal, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-02-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner was working as 'Tax Daroga' in Amarpur
Nagar Panchayat, but he was removed from the work without any
reason or without following any process.



3. The petitioner was appointed as 'Tax Daroga' on honorarium basis vide letter dated 22.02.2006, accordingly, he continued to discharge the duty, but the record shows that he was not carrying good relationship with the members of the Nagar Panchayat as from time to time again allegation has been made regarding misbehaviour of the present petitioner and ultimately, the services of the petitioner has been terminated by the General Body Meeting dated 16.09.2008 and that has been communicated by the Executive Officer, Amarpur Nagar Panchayat, vide letter dated 19.11.2008, but the letter discloses that his services has been terminated on account of indiscipline but there is no specific allegation mentioned in the said letter and the nature of indiscipline. In item no.4 of the proceeding of the Nagar Panchayat without any discussion recorded a finding that he has committed misconduct and approved the proposal for removal from service.

4. If a person, on charge of misconduct either a temporary, permanent or any other nature, is to be removed, in such circumstance, the minimum requirement of natural justice is to be followed that he should be served the proper show-cause notice, asking the explanation from him or her and if it is found that his or her explanation is not satisfactory the authority has liberty to pass



order against employee concerned. But, in the present case, no such formality has been observed, straightway arrived to a conclusion that the petitioner has committed misbehaviour and led to termination of service. The process following preceding action cannot be approved by this Court.

5. In such view of the matter, the order dated 19.11.2008 (Annexure-10) is set aside. The matter is remanded back to the respondent authorities, if they so like, may take action against the petitioner but after following the proper procedure. It is clarified that the petitioner will not be entitled for any salary for the period he has remained out of work.

6. With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	23.02.2018
Transmission Date	N/A.

