

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14321 of 2001

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Sudama Dubey, s/o lat Ram Nath Dubey Assistant Director (Statistics), Department of Animal Husbandry, office of the Regional Director, Animal Husbandry, Central Range (Veterinary College Campus), Patna (now retired)

.... Petitioner/s

Versus

1. The State of Bihar through Commissioner-cum-Secretary, Department of Animal Husbandry, Vikash Bhawan, Patna
2. Joint Secretary, Department of Animal Husbandry, Vikash Bhawan, Patna
3. Deputy Secretary-cum-Conducting Officer, Department of Animal Husbandry, Vikash Bhawan, Patna
4. Director, Animal Husbandry, Vikash Bhawan, Patna
5. The Regional Director, Animal Husbandry, Central Range (Veterinary College Campus), Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Archana Prasad

For the Respondent/s : Mr. Syed Iqbal Ahmad (SC 20)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 13-08-2018

1. The present petition has been filed for quashing of the order dated 30.01.1999 passed by the disciplinary authority inflicting punishments on the petitioner herein. The punishments which have been inflicted upon the petitioner are stoppage of one annual increment with non-cumulative effect and non-entitlement of the petitioner to receive any salary apart from the subsistence allowance already paid for the period, the petitioner remained under suspension. The petitioner has also assailed the appellate order dated 13.03.2001.

2. The brief facts of the case are that a departmental proceeding was initiated against the petitioner vide resolution dated



07.04.1998 on the allegation of the petitioner not cooperating in the office work, him staying at a distance of 55 kms. from the office resulting in non-disposal of the work of the office, misappropriating government money and not responding to the letters of the D.M.S.S. The Inquiry Officer seems to have been conducted an inquiry, whereafter the order of punishment dated 30.01.1999 has been passed.

3. The learned counsel for the petitioner has submitted that neither the copy of the inquiry report has been furnished to the petitioner herein nor any second show cause notice has been served upon the petitioner calling for a response from the petitioner regarding his defense in the ongoing disciplinary proceeding as well as on the proposed punishments to be inflicted upon the petitioner herein. It is further submitted that the said action/ in-action on the part of the disciplinary authorities is violative of the principles of natural justice.

4. *Per contra*, the learned counsel for the respondents has submitted that the disciplinary proceeding was conducted in a proper manner, hence the order of punishment is not required to be interfered with.

5. I have heard the learned counsel for the parties and gone through the records of the case and I find that the averment of the petitioner to the effect that neither the inquiry report was supplied to



him nor any show cause notice was issued to the petitioner, has not been controverted by the respondents in their counter affidavit and infact, neither any inquiry report nor any show cause notice has been annexed to the counter affidavit. In such view of the matter, this Court finds that the order of punishment is vitiated and has been passed contrary to the principles of natural justice. Accordingly, the order of punishment dated 30.01.1999 is quashed. Since the order of punishment has been quashed, the appellate order is bound to fall and accordingly, the appellate order dated 13.03.2001 is also set aside. It goes without saying that the consequential benefits as a result of the quashing of the order of punishment dated 30.01.1999, shall follow.

6. The writ petition is allowed.

(Mohit Kumar Shah, J)

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CAV DATE	NA
Uploading Date	
Transmission Date	NA

