

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12934 of 2014

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Nirankar Prasad Singh, son of Late Kameshwar Prasad Singh, resident of village- Sardiha, P.S.- Simri Bakhtiyarpur, District- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Water Resources, Govt. of Bihar, Patna
2. The Principal Secretary, Department of Water Resources, Govt. of Bihar, Patna
3. The Commissioner-cum-Secretary, Water Resources Department, Government of Bihar, Patna
4. The Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna
5. The Land Acquisition Officer-cum-Conducting Officer, Koshi Pariyojana, Purnea

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amrit Abhijat, Adv. Mr. Manoj Kumar Gupta, Adv. Mr. UpendraYadav, Adv. Mr. Ranbijay Singh, Adv.
For the Respondent/s	:	Mr. GP-5 MD. Nadim Siraj

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 29-01-2018

This writ petition under Article 226 of the Constitution of India has been filed for quashing the order dated 2.8.2011 as contained in Annexure-20, passed by Principal Secretary, Department of Water Resources, Government of Bihar, Patna, by which the departmental appeal filed by the petitioner has been dismissed as well as order dated 23.7.2004 passed by Disciplinary Authority by which petitioner has been dismissed from the post of



Senior Accounts Clerk, Special Land Acquisition Office, Sone Project, Aurangabad.

Briefly stated facts of the case as stated in writ petition is that petitioner was working as Senior Accounts Clerk in the office of Special Land Acquisition Office, Koshi Project, Purnia, and served upon chargesheet dated 1.10.1992 with two charges. First, charge was that in collusion with other employees of the department huge amount of compensation has been misappropriated and lesser amount has been paid to persons whose lands were acquired and second charge was that only up to Rs.500/- as compensation amount was to be paid through cash. Such compensation amount more than Rs. 500/- has been paid by cash.

Petitioner had submitted his reply on 27.10.1992 denying the two charges on the ground that although he was posted in the same office but was not concerned with payment of compensation amount to persons whose lands were acquired and he was given other duty to perform. Petitioner was put under suspension on 21.7.1992 and departmental proceeding was initiated on 4.7.1994 and his suspension was revoked. Petitioner vide letter dated 8.12.2001 was served a show cause notice as to why he should not be dismissed from service as charges have been prima facie



proved against him in departmental proceeding. Petitioner filed his reply pursuant to said show cause but same was not considered by Respondent no. 3 and by order dated 16.9.2002 Respondent no. 3 dismissed the petitioner from service and thereafter petitioner filed an appeal before the Appellate Authority on 21.11.2002. But when his appeal was not decided, he filed C.W.J.C. no. 10103 of 2002 which was disposed of on 16.1.2003 with a direction that appeal of petitioner be disposed of within a period of four months and thereafter appeal filed by petitioner was rejected by order dated 19.5.2003. Against the punishment order petitioner filed C.W.J.C. No. 8358 of 2003 and after hearing the parties Hon'ble High Court quashed the order of dismissal passed by the Disciplinary Authority dated 16.9.2002 as well as appellate order dated 19.5.2003 by order dated 12.9.2003. The joining of petitioner was accepted by Respondent no. 3 by order dated 10.11.2003 and thereafter he is working continuously and salary is being paid to him.

Respondent no. 3 without any proceeding or show cause to the petitioner again dismissed petitioner from service by order dated 23.7.2004 on the basis of enquiry made by the District Magistrate, Purnia, and Sub Divisional Officer. It has been submitted on behalf of petitioner that from perusal of enquiry



report it is apparent that no enquiry was conducted against petitioner and without any evidence and without any materials, enquiry officer submitted two pages enquiry report and on the basis of said report punishment was awarded to the petitioner which was quashed by Hon'ble High Court and after Hon'ble Court's order no proceeding was initiated against petitioner or any show cause was asked from him and Respondent no. 3 on the basis of previous report which was quashed by the Hon'ble High Court, again dismissed the petitioner from service. Petitioner filed appeal before the appellate authority which was rejected by order dated 29.4.2005 on the technical ground that his appeal was to be filed directly whereas the petitioner filed appeal through Respondent no. 3. Against the order dated 29.4.2004 and 23.7. 2004 petitioner filed C.W.J.C. No. 10199 of 2005 and by order dated 29.4.2005 the Hon'ble High Court remitted the matter to Respondent no. 2 to pass a fresh order in accordance with law. In compliance of the said order Principal Secretary, Water Resources Department, Patna, dismissed the appeal of the petitioner vide order dated 2.8.2011, as contained in Annexure- 20 of this petition.

Learned counsel for the petitioner has submitted that order passed by respondent no. 2 is not sustainable in the eye of law because departmental proceeding was initiated against four



persons, namely, Mahendra Narayan Yadav (cashier), Prithvi Chand Chaudhary (Head Clerk-cum-Accountant), Krishnand Jha (Clerk) and petitioner Nirankar Prasad (Sr. Accounts Clerk). No major punishment order has been passed against other three persons and they have been granted pensionary benefits and other benefits although they were responsible for disbursement of compensation amount whereas petitioner has been dismissed from service. The irregularity with respect to deficit amount of Rs. 80,308.93 paise was found in physical verification of the accounts and cash, and for this cashier Mahendra Narayan Yadav was held responsible. After deducting this amount, full pensionary benefits was being paid to the widow of Late Mahendra Narayan Yadav. The Head Clerk -cum-Accountant Prithvi Chand Chaudhary filed C.W.J.C. No. 3181 of 2010 on the ground that the person who was mainly responsible has been exonerated and High Court by its order dated 6.8.2010 directed respondents to modify the quantum of punishment and respondents vide order dated 8.11.2010 modified the order of punishment against Prithvi Chand Chaudhary and punishment of deduction of 5% of pension for five years. Mr. Krishna Nand Jha, who was a clerk Incharge of disbursement of compensation amount has been pardoned after giving a minor punishment, whereas petitioner, who was not even



in the said department and nothing was found against him during enquiry, has been dismissed from service. Prime accused Vijay Kishore, who was the officer at the relevant time has been exonerated from charges by giving punishment of warning only, by order dated 30.3.2009 issued by the Joint Secretary of State of Jharkhand. Learned counsel for the petitioner has submitted that case of the petitioner may be disposed of in terms of order dated 6.8.2010 passed in C.W.J.C. No. 3181 of 2010 with respect to reconsideration of quantum of punishment of dismissal from service imposed upon petitioner is too harsh and other three chargesheeted employees, who were mainly responsible for committing misconduct, have been let off by minor punishment. The operative part of the order dated 6.8.2010 passed in C.W.J.C. No. 3181 of 2010 is extracted below:-

“This Court finds no infirmity insofar as imposition of punishment in principle is concerned, due to the findings arrived at the enquiry report.

However, if the petitioner represents on the quantum of punishment only, and relies on any materials which he may furnish with regard to his own findings and also upon a lesser punishment meted out to a co-delinquent, the authorities are required to reconsider the quantum of punishment within a maximum period of three months from the date of receipt/production of a copy of this order.

The application is allowed only to the extent indicated.”

As submitted, the case of the petitioner is also remitted with same terms and conditions for reconsideration by the Disciplinary



Authority with respect to quantum of punishment imposed upon petitioner as that of petitioner of C.W.J.C. No. 3181 of 2010.

The matter is remitted to Respondent no. 2 to reconsider the quantum of punishment as done in the case of Prithvi Chand Choudhary in C.W.J.C. No. 3181 of 2010 within a period of three months from the date of receipt/production of a copy of this order .

With said observation and direction this writ petition is disposed of.

(S. Kumar, J)

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AFR/NAFR	
CAV DATE	NA
Uploading Date	
Transmission Date	

