

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18069 of 2015

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Santu Kumar Ram Son of Sri Ram Pujan Ram Resident of Village- Mangraon, P.s
Nasriganj, District Rohtas

.... Petitioner

Versus

1. The State of Bihar through the Chief Seceretary, Govt. of Bihar , Patna.
2. The Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar , Patna.
3. The Commissioner, Magadh Division, Gaya
4. The Additional Secretary, Department of Revenue and Land Reforms ,Government of Bihar,Patna.
5. The Under Secretary, Department of Revenue and Land Reforms , Government of Bihar Patna.
6. The District Magistrate, Jahanabad.
7. The Additional Collector, Department Enquiry, Jehanabad.
8. The Presenting Officer-cum-Deputy collector land Reforms , Jehanabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Rajiv Kumar Verma, Senior Advocate
Mr. Shailesh Kumar, Advocate

For the Respondents : Mr. Sanjay Kumar, AC to SC 15

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 31-01-2018

Heard the counsel for the petitioner and the State.

2. The writ petition has been filed for quashing of the order dated 21.02.2015 (Annexure 14), passed by the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar , Patna (respondent no.2), whereby the petitioner has been dismissed from service with immediate effect. The petitioner has also prayed for quashing of the order dated 28.08.2015 (Annexure 16), i.e., the Appellate authority in Service Appeal No. 1 of 2015-16 by which the appeal against the dismissal order has been dismissed.

3. Shorn of unnecessary details, the case of the petitioner is



that he was caught red hand on 27.11.2008 which led to lodging of Vigilance Police Station Case no. 103 of 2008 under sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 upon the allegation of accepting bribe of Rs.1000/-.

4. Charge memo in the departmental proceedings was issued against the petitioner on 20.11.2009. The petitioner has thereafter been proceeded against on the same set of charges. When notice was issued to the petitioner in the proceedings, he filed C.W.J.C.No. 11508 of 2014 which was disposed of vide order dated 17.11.2014 directing him to appear in the departmental proceeding. The petitioner thereafter participated in the proceedings.

5. It is the case of the petitioner that he had made request for various documents before the Enquiry officer by his letter dated 2.12.2013 but none of the documents have been supplied to him. Case of the petitioner is that the Enquiry officer has conducted the enquiry in gross violation of the provisions contained in the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Bihar CCA Rules, 2005'). It is submitted that the enquiry has been conducted in a most casual manner without having regard to the severe consequence as a result thereof against the petitioner. Learned Senior counsel submits that no evidence was produced in the proceedings and the enquiry was vitiated on account of violation of Rule 17(14) of the Bihar CCA



Rules, 2005. He has urged that the same is also evident from Annexure 11, the enquiry report which reveals that no evidence whatsoever was led before the Enquiry officer in support of the allegations. In fact, bare perusal of the same shows that the Enquiry officer seems to have been obsessed with the petitioner's arrest and the FIR/allegations made against him in the vigilance case. Relying upon petitioner's suspension order subsequent upon his arrest in the criminal case, the severe punishment of dismissal has been imposed. Even in support of the suspension order no witness has been examined. Reliance has been placed on the judgments of the Apex court in the case of **Roop Singh Negi V. Punjab National Bank and Others**, reported in (2009) 2 SCC 570 as also the case of **State of Uttar Pradesh and others Vs. Saroj Kumar Sinha**, reported in (2010) 2 SCC, para 28.

6. Counsel for the State, referring to paragraph 8 of the counter affidavit, states that after examining the enquiry report, second show cause and other relevant papers with reference to the charge memo in 'Prapatra Ka' it was found that the show cause submitted by the petitioner was not satisfactory.

7. This Court finds that other than the fact that the petitioner was arrested in the vigilance case, there is nothing on record in the proceedings to make out or to support the charges levelled against the petitioner. In response to the second show cause



which is Annexure 13 to the writ petition, the petitioner has drawn attention of the Disciplinary authority to the fact that the Presenting officer had not produced any document or any witness in support of the charge. He has also pointed out that he was not given copies of the documents as required by him, and in absence of the same he was prevented from submitting effective response to the charge memo. However, the same has not been considered by the Disciplinary authority in his order contained in letter dated 21.2.2015 (Annexure 14). The order passed by the Disciplinary authority, has only relied upon the enquiry report. Without considering the aforesaid objection and without considering the fact that no evidence whatsoever was produced in support of the charge against the petitioner, he has passed the order inflicting the punishment of the dismissal with immediate effect as noticed above.

8. Even from the charge memo, it would be apparent that other than the order of suspension dated 22.12.2008 (Annexure 3) pursuant to the petitioner's arrest in the vigilance case, no evidence has been made the basis of the allegation. The same cannot, by any stretch of imagination, be taken to be evidence in respect of charge that he has taken any illegal gratification. The order of suspension dated 22.12.2008 cannot be considered to be an evidence so as to bring home the charges of taking illegal gratification against the petitioner. The instant case is a case of no evidence and gross



violation of entire procedure prescribed under Rule 17 (14) of the Bihar CCA Rules.

9. In view of the aforesaid findings, order dated 21.02.2015 (Annexure 14), passed by the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna (respondent no.2) as well as the appellate order dated 28.8.2015, passed in Service Appeal No. 1 of 2015-16 are hereby quashed. The petitioner would be entitled to his reinstatement with all consequential benefits. However, it would be open to the authorities to proceed against the petitioner in accordance with law.

10. The writ petition stands allowed.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
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