

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18055 of 2010

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Kumar Ajit Singh, son of late Indradeo Singh, r/o B-304, Sanjana Apartment Ara Garden road, Near Jagdeopath, Patna-14, PS-Danapur, Dist-Patna

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna
2. The Secretary, General Administration Department, Government of Bihar, Patna
3. The Additional Secretary, General Administration Department, Government of Bihar, Patna
4. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar
: Mr. Brij Bihari Tiwary
For the Respondent/s : Mr. Gyan Prakash Ojha, GA-7
: Mr. Abhishek Singh, AC to GA-7

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 21-06-2018 The present writ petition has been filed for quashing the order of punishment dated 17.09.2009 whereby and whereunder, the pension of the petitioner has been directed to be reduced by 10%.

The short facts of the case are that a departmental proceeding was initiated against the petitioner herein and *Prapatra* “ka” was issued on 29.09.2000 wherein it was alleged that the petitioner while posted at the Treasury office as Executive Magistrate, Pakur, had not verified certain bills in accordance with Rule 130 of Bihar Finance Rules and did not act with common prudence in the matter of processing of bills amounting to Rs. 3.5



lacs approximately. The Inquiry Officer had conducted the inquiry and submitted the inquiry report dated 23.10.2007 whereunder, he came to the finding that the charges have been found to be partly proved and at best, the present case can be said to be a case of negligence and the allegations leveled are not of serious nature. The disciplinary authority had thereafter issued a second show cause notice to the petitioner herein on 24.07.2009 and after seeking reply of the petitioner, has passed the impugned order dated 17.09.2009, inflicting punishment of reduction of 10% of the pension of the petitioner herein.

The learned counsel for the petitioner submits that the impugned order of punishment dated 17.09.2009 would show that firstly, the same has not furnished any reason for inflicting punishment on the petitioner herein and has merely narrated the series of events which have taken place in the present case and secondly, there is no finding of any grave misconduct as against the petitioner or of having caused pecuniary loss to the Government on account of the said misconduct so as to warrant infliction of punishment in terms of ***Rule 43 (b) of Bihar Pension Rules, 1950.***

Having heard the parties and upon going through the materials on record, I am of the view that the impugned order



of punishment dated 17.09.2009 suffers from total non-application of mind and does not furnish any reason so as to warrant infliction of punishment on the petitioner herein. Moreover, the impugned order dated 17.09.2009 also does not comply with the provisions of **Rule 43 (b) of Bihar Pension Rules, 1950** to the effect that for inflicting punishment under **Rule 43(b) of Bihar Pension Rules**, it is necessary to come to a conclusion of grave misconduct on the part of the delinquent or pecuniary loss having been caused to the Government on account of the misdeeds of the delinquent, however in the present case, there is no such finding, hence the order of punishment dated 17.09.2009 is not sustainable in the eyes of law and is accordingly, quashed. Since the original order of punishment dated 17.09.2009 has been set aside, consequently the appellate order dated 08.06.2010 is bound to fall and is accordingly, quashed.

(Mohit Kumar Shah, J)

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