

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20635 of 2010

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Singasan Prasad S/O Late Jaduni Prasad R/O Vill.- Barwat Pasaraee, P.S.- Bettiah
Muffasil, Distt.- West Champaran Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary Environment And Forest Deptt. Govt. Of Bihar, Patna
 2. The Deputy Secretary, Environment And Forest Deptt. Govt. Of Bihar, Patna
 3. The Chief Conservator, Forest Govt. Of Bihar, Patna
 4. The Divisional Officer Forest, Tirhut Forest Extension Division, Muzaffarpur Null
 5. The Deputy Director, Champaran Forest Project Division-2, Bettiah West Champaran
 6. The Divisional Forest Officer Cum Deputy Director, Valmiki Tiger Project, Division Bench-1 Bettiah, West Champaran Respondent/s
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Appearance :

For the Petitioner/s : Mr. Manoj Kumar

For the Respondent/s : Mr. Kinkar Kumar

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 07-08-2018

1. The present writ petition has been filed for quashing the order dated 16.10.2004, whereby and whereunder the petitioner has been inflicted with the punishment of stoppage of five annual increments with cumulative effect and it has been directed to assess the loss caused by the petitioner and recover the same from the petitioner herein. It has been further directed by the aforesaid punishment order dated 16.10.2004 that no monetary benefit would be payable to the petitioner for the period of suspension except the subsistence allowance. The petitioner has further prayed for quashing of the appellate order dated 16.02.2012.

2. The brief facts of the case are that the petitioner was served with a charge sheet dated 29.01.1994 primarily on the



allegation of the petitioner having failed to secure the trees in the forest area as well as on the allegation of illegal felling of trees having been committed in the area of posting of the petitioner herein. The petitioner had then participated in the inquiry and the Inquiry Officer by an inquiry report dated 24.04.1996 had found the petitioner not guilty of charges no. 1, 4, 5 and 6 and as far as the charges no. 7 to 9 are concerned, the inquiry officer had not given any opinion about the same. It appears that without either serving the copy of the inquiry report on the petitioner or without giving any second show cause notice to the petitioner herein, the order of punishment dated 16.10.2004 has been passed by the respondents. The petitioner is stated to have filed an appeal, however the same was not entertained but the punishment has been modified and now, it has been directed that the petitioner would be liable to pay 1/7th of a sum of Rs. 20,87,585.78.

3. The learned counsel for the petitioner has submitted that firstly, the principles of natural justice has not been complied with, inasmuch as the petitioner has not been supplied with the inquiry report and in any case, even if it is accepted that he has been exonerated by the inquiry officer, then atleast the respondents were required to give second show cause notice on the proposed punishment before passing the punishment order dated 16.10.2004, however the said procedure has been by-passed by the respondents. It



is further submitted that the concerned Rule i.e. Bihar Government Services Conduct Rules, 1976 do not postulate any punishment of recovery of any sum from the delinquent, hence the authorities could not have inflicted the punishment of recovery of any sum from the petitioner herein.

4. The learned counsel for the respondents, referring to the counter affidavit, though has not controverted the submissions of the learned counsel for the petitioner but has stated that since a loss of Rs. 20 lacs an odd had been estimated by the department, the department has thought it proper to recover the said amount from all the beneficiaries and therefore the share of the petitioner comes to Rs. 1/7th of the said sum of Rs. 20 lacs an odd.

5. I have heard the learned counsel for the parties and gone through the materials on record. I find that though the Inquiry Officer has exonerated the petitioner, still the disciplinary authority has not furnished any reason for differing with the findings of the Inquiry Officer and issued a show cause accordingly to the petitioner herein seeking his response on the ground of difference so as to arrive at a finding of guilt warranting infliction of punishment on the petitioner herein, hence the entire action of the respondents smacks-of violation of the principles of natural justice. I further find that the disciplinary authority has not even bothered to ask for a show cause from the petitioner before inflicting the punishment vide impugned order dated



16.10.2004 which is also contrary to the law laid down by the Hon’ble Apex Court. Reference in this regard be had to the judgment of the Hon’ble Apex Court rendered in the case of *Managing Director, ECIL, Hyderabad v. B. Karunakar* reported in (1993) 4 SCC 727 and the one reported in 1998 (7) SCC 84 (*Punjab National Bank v. Kunj Bihari Mishra*).

6. For the reasons mentioned hereinabove, I find that the disciplinary authority has neither supplied a copy of the inquiry report to the petitioner herein nor has sought for any show cause reply from the petitioner on the reasons for differing with the findings of the Inquiry Officer, who has exonerated the petitioner, nor has given any show cause on the proposed punishment to be inflicted upon the petitioner, hence the impugned order of punishment dated 16.10.2004 and the appellate order dated 16.02.2012 are perverse and illegal as well as contrary to the well settled law, thus are set aside. Consequentially, the order dated 27.03.2012, by which recovery has been sought to be made from the petitioner is also quashed.

7. The writ petition is allowed with all consequential benefits.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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