

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7387 of 2003

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Ramdeo Prasad son of Shri Daroga Prasad, resident of village- Dayalchak, Police Station: Sakurabad, District Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Bihar State Leather Development Corporation, Udyog Bhawan, Gandhi Maidan, Patna through the Chairman, Udyog Bhawan, Gandhi Maidan, Patna.
3. The Chairman, the Bihar State Leather Development Corporation, Udyog Bhawan, Gandhi Maidan, Patna.
4. The Managing Director, the Bihar State Leather Development Corporation, Udyog Bhawan, Gandhi Maidan, Patna.
5. The Deputy Manager, Personnel, the Bihar State Leather Development Corporation, Udyog Bhawan, Gandhi Maidan, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the Respondent/s : Mr. (GP4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 06-02-2018

On the last date of hearing, nobody had appeared on behalf of the parties. Today also none has appeared on behalf of the petitioner, however, the learned counsel for the State is present.

2. It was made clear in the order dated 01.02.2018 that if nobody appears in the present case on the next date of hearing, the matter would be decided on its own merit without waiting for the learned counsel for the parties. In view of the aforesaid, I propose to dispose of the present petition by an order being made hereinafter.

3. The short facts of the case are that the petitioner was posted as Storekeeper in Small Tannery, Bihta and on physical



verification of the store on 8.1.1995, it was found that some materials were missing and the reasons for the same was stated to be that the same was stolen by unknown thieves. Thereafter, FIR was lodged with Bihta Police Station on 13.1.1995. In the FIR shortage of leather was stated to be worth Rs. 2,13,960.25, however, subsequently it was shown that the leather amounting to Rs. 1,60,416.20 had been issued in the month of December, 1994 to two peons, as a result thereof the shortage was reduced to Rs. 53,544.05. Thereafter, explanation was called for from the petitioner and upon finding his reply to be not satisfactory, the petitioner was put under suspension vide memo No. 170 dated 13.2.1995 and his headquarters was fixed at Model Tannery, Bettiah. Subsequently, the charge sheet dated 30.8.1995 was served on the petitioner herein on the allegation that the petitioner had a hand in the theft of the leather for which the FIR had been lodged.

4. In the enquiry, the Enquiry Officer found the petitioner to be guilty of the charges levelled against him and submitted his enquiry report, a copy whereof was forwarded to the petitioner herein by letter dated 8.8.2000, requesting the petitioner to submit his reply by 16.08.2000. The petitioner, however, failed to submit his reply by 16.8.2000. Hence, a fresh show cause dated 16.8.2000 was issued to the petitioner herein and the petitioner was directed to file his reply by 4.9.2000, still the petitioner failed to



submit his reply to the show cause, but the Disciplinary authority again sent a second show cause dated 30.0.2000 and requested the petitioner to submit his reply by 15.10.2000, however, the said letter was returned on the pretext that the petitioner was not present at the village where the said letter was sent. In view of the fact that the petitioner failed to submit his clarification to the show cause reply, the Disciplinary authority proceeded with the matter and came to the conclusion that the present case was a fit case for dismissal of the petitioner herein from services of the Bihar State Leather Development Corporation.

5. The petitioner herein had then challenged the aforesaid order dated 20.12.2000 before this Court by filing a writ petition bearing CWJC No. 4814 of 2001, however, the same was dismissed with a liberty to the petitioner to file an appeal against the order of dismissal. The petitioner herein had then filed an appeal before the appellate authority and the appellate authority by an order dated 4.7.2003 has been pleased to dismiss the appeal and confirm the order of dismissal dated 20.12.2000.

6. A bare perusal of the order of dismissal dated 20.12.2000 would show that the same has been passed merely on the ground that no show cause reply was submitted by the petitioner herein and the said order of dismissal dated 20.12.2000 also does not



show any application of mind on the part of the Managing Director, much less any reason has been assigned for passing the order of dismissal which is the gravest form of punishment that can be inflicted on an employee. It is apparent that a cryptic order of dismissal, showing total non-application of mind has been passed by the Disciplinary authority, hence the same is not sustainable in the eyes of law and the same deserves to be quashed.

7. As far as the appellate order dated 4.7.2003 is concerned, the same has also been passed on conjectures and surmises and on the presumption that since the petitioner was not responding to the show cause notice, he has lost his interest in the service of the Corporation.

8. For the reasons mentioned herein above, I deem it fit and proper to quash the order of dismissal/punishment dated 20.12.2000 and consequently the appellate order dated 4.7.2003 is also liable to fall and is accordingly set aside.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.02.2018
Transmission Date	

