

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10256 of 2004

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Deogati Singh, s/o late Sanjeevan Singh, r/o PIT colony, Kankarbagh, PS-Kankarbagh, Dist-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner and Secretary, Finance Department, Government of Bihar, Patna
3. The Commissioner, Patna Division, Patna
4. The Collector, Patna
5. The Treasury Officer, Sachivalaya Treasury, Sinchai Bhawan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha
Mr. Shanti Pratap
Mr. Alexander Ashok

For the Respondent/s : Mr. (SC4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 16-08-2018

1. The present writ petition has been filed by the petitioner for quashing the order of punishment dated 26.09.2002 and the appellate order dated 29.06.2004.

2. The brief facts of the case are that a disciplinary proceeding was initiated against the petitioner herein and a charge sheet was served upon the petitioner which is dated 31.12.2001 on the allegation that the petitioner was made In-charge-Assistant for one day and during the said period, he had passed 07 medical bills running into several lacs of rupees. The Inquiry Officer had conducted the inquiry and had found that the inquiry cannot be concluded since a Vigilance Case no. 36 of 1997 dated 21.07.1997 is already



going on, hence it would be appropriate to await the findings in the said vigilance case. Nonetheless, the disciplinary authority differed from the said opinion of the Inquiry Officer and served a second show cause notice dated 06.07.2002 on the petitioner. Thereafter, the order of punishment dated 26.09.2002, dismissing the petitioner from service, has been passed. The said order of punishment dated 26.09.2002 was challenged in appeal and the same has also been dismissed on 29.06.2004. The said order of punishment and appellate order are under challenge in the present proceeding.

3. The learned Senior Counsel for the petitioner has submitted that no reason has been furnished in the second show cause notice dated 06.07.2002 for differing with the opinion of the Inquiry Officer, hence the opportunity of defending against the reasons for differing from the opinion of the Inquiry Officer, has been snatched away from the petitioner which is in violation of the principles of natural justice, hence on this ground alone, the order of punishment dated 26.09.2002 is fit to be set aside.

4. I have heard the learned Senior Counsel for the petitioner and I find that no reason whatsoever has been furnished in the second show cause notice dated 06.07.2002 for differing with the opinion of the Inquiry Officer, hence on this ground alone the order of punishment dated 26.09.2002 is fit to be set aside. Reference in this



regard be had to a judgment of the Hon’ble Apex Court reported in **2013(7) SCC 251 (S.P. Malhotra v. Panjab National Bank & ors.)**. Apart from the aforesaid lacuna in the departmental proceeding, I further find that the impugned order of punishment dated 26.09.2002 is a mere narration of the sequence of events which have taken place during the course of the departmental proceeding and no cogent reason whatsoever has been furnished for the purposes of coming to a finding of guilt, as far as the petitioner herein is concerned. At this juncture, it must be stated that the learned Senior Counsel for the petitioner has informed this Court that the Vigilance Case is still pending trial.

5. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the writ petition is allowed and the order of punishment dated 26.09.2002 is quashed. As a result of quashing of the order of punishment dated 26.09.2002, the appellate order is bound to fall, hence the appellate order dated 29.06.2004 is also set aside.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.08.2018
Transmission Date	NA

