

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3457 of 2004

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Ram Datta Prasad Sharma, s/o late Ram keshwar Sharma, r/o vill-Achuara, PS-Barh, Dist-Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Deptt. of Water Resources, Govt. of Bihar, Patna
2. The Secretary, Deptt. of W.R.D., Govt. of Bihar, Patna
3. The Deputy Secretary, Deptt. of Water Resources, Govt. of Bihar, Patna
4. Chief Engineer-cum-Engineer-in-Chief, W.R.D. Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Datta Pd. Sharma (in person)

For the Respondent/s : Mr. Niraj Kumar, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

C.A.V. JUDGMENT

Date: 30-08-2018

1. The present writ petition has been filed for setting aside the order dated 09.08.2000, whereby and whereunder the disciplinary authority has passed the order of punishment. The petitioner has further prayed for quashing the appellate order dated 04.07.2002, whereby and whereunder the appeal of the petitioner has been rejected.

2. The brief facts of the case are that while the petitioner was posted as Executive Engineer, Batane Headworks Division, Hariharganj, Palamu, he was put under suspension on certain allegations in connection with dereliction in duty and on the charge of malpractices pertaining to the work of Main Canal, Punashi Reservoir scheme at Deoghar. A charge sheet dated 25.05.1992 was served on



the petitioner and a departmental proceeding was initiated with regard to the charges pertaining to making excess payment, violating the rules, payment of security money without completion of the work, showing soil as rock and paying excess amount etc. The petitioner had participated in the inquiry, whereafter the inquiry officer had submitted the inquiry report dated 30.05.1995, wherein charges no. 1, 1a and 2 were found to have been proved whereas the charges no. 3 and 5 were found not to be proved and charge no. 4 was found to be partly proved. In nutshell, the Inquiry Officer had found that excess payment was made for excavation of the canal resulting in loss of Rs. 2.03 lacs to the Government. The Inquiry Officer also found that a sum of Rs. 47,000/-, deducted from the running account bill of the contractor, was released and paid to the contractor without the work having been completed and without clearing the final bill of the work. It was further found that certain payments were made to the contractors without approval of the competent authority and in total, excess amount of Rs. 3.15 lacs was paid to the contractors. Thereafter, the disciplinary authority had passed the order of punishment dated 13.02.1998, whereby and whereunder the petitioner was inflicted with the punishment of Censor, withholding of three annual increments with cumulative effect, recovery of Rs. 1.06 lacs and it was further directed that the petitioner would not be entitled to anything except



the subsistence allowance for the period of suspension. The petitioner had then challenged the aforesaid order of punishment dated 13.02.1998 by filing a writ petition bearing CWJC no. 7997 of 1998 and this Court by an order dated 10.11.1999 had set aside the impugned order of punishment dated 13.02.1998 and remitted the matter back to the authorities to pass appropriate orders in accordance with law after giving an opportunity to the petitioner to file his response to the inquiry report. Thereafter, the petitioner was granted an opportunity to file his response to the inquiry report, which the petitioner availed of and he filed a reply dated 29.12.1999. The reply of the petitioner was thereafter considered and it was found that most of the charges leveled against the petitioner had stood proved during the course of the departmental inquiry, hence by a detailed order dated 09.08.2000, the disciplinary authority had decided to inflict punishment of censor (1986-87), withholding of three annual increments with cumulative effect, recovery of Rs. 1.06 lacs and non-entitlement of the petitioner to receive anything else than the subsistence allowance for the period of suspension. The petitioner had then challenged the aforesaid order of punishment dated 09.08.2000 before this Court in CWJC no. 9242 of 2000 and the same was disposed of as withdrawn by an order dated 17.01.2002 with liberty to the petitioner to file an appeal. In the meantime, the petitioner had



also filed another representation which was placed before the Cabinet for approval and then the Cabinet had also rejected the representation/appeal of the petitioner and the earlier order of punishment dated 09.08.2000 was not interfered with and accordingly, the petitioner was communicated about the same vide letter no. 760 dated 04.07.2002.

3. The petitioner, who has appeared in person, has submitted that without any material to connect the petitioner with the allegations leveled against him, the disciplinary authority has passed the order of punishment. It is further submitted that the appeal of the petitioner has not been considered in the right perspective and the appellate authority has passed a mechanical order by considering his representation dated 25.08.2000 instead of considering the memorial appeal dated 02.07.2002.

4. *Per contra*, the learned counsel for the respondents has submitted that there is no irregularity in conducting the disciplinary proceedings, hence this Court is not required to sit in appeal over the findings of the Inquiry Officer as also the order passed by the disciplinary authority inflicting punishment on the petitioner. Lastly, it is submitted that since the petitioner did not file the memo of appeal within a reasonable time pursuant to the liberty granted by this Court by an order dated 17.01.2002 passed in CWJC no. 9242 of 2000, the



disciplinary authority decided to examine the earlier appeal/ representation of the petitioner dated 25.08.2000 since the same was filed by the petitioner challenging the order of punishment dated 09.08.2000 and after examining the same, the same was placed before the Council of Ministers and the Cabinet had approved the order inflicting punishment dated 09.08.2000 on 19.06.2002, whereafter communication was made, regarding the same, to the petitioner vide letter no. 760 dated 04.07.2002.

5. I have heard the learned counsel for the parties and gone through the materials on record and I find that there is no procedural lapse as far as the conduct of disciplinary proceedings as against the petitioner herein is concerned. I further find that the Inquiry Officer has found charges no. 1, 1a and 2 to have been conclusively proved while the charge no. 4 has been found to be partly proved, hence the punishment inflicted upon the petitioner herein vide order dated 09.08.2000 requires no interference by this Court. It must be pointed out that in the earlier round of litigation, this Court while passing the order dated 10.11.1999 in CWJC no. 7997 of 1998 had also refrained from quashing the inquiry report, hence at this juncture, the petitioner is precluded from assailing the inquiry report. Nonetheless, considering the totality of the circumstances, this Court does not find any illegality or irregularity in the entire departmental proceeding



leading to passing of the punishment order dated 09.08.2000 as also the order on representation/ appeal of the petitioner dated 04.07.2002, which is well reasoned and a self speaking order.

6. Having considered the facts and circumstances of the case, I find that there is no merit in the present writ petition, hence the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	18.08.2018
Uploading Date	30.08.2018
Transmission Date	NA

