

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5471 of 2017

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Sumant Prasad, Son of Late Chandrama Prasad, Ex-Incharge Records Room, District Registration Office, Bhojpur, Ara, at present residing at New Bus Stand, Sital Road, Police Station Ara, District Bhojpur at Ara.

.... Petitioner

Versus

1. The State of Bihar through the Inspector General, Registration, Government of Bihar, Patna.
2. The Deputy Registrar, Registration Department, Government of Bihar, Patna.
3. The Assistant Inspector General, Registration-cum-Inquiry Officer, Patna Division, Patna.
4. The District Additional Registrar, Bhojpur, Ara.
5. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Dr. A.K. Upadhyay-SC2
For Accountant General : Mr. Raghwanand, Advocate

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 03-04-2018

1. The present petition has been filed for quashing the letter no. 253 dated 25.01.2017 by which the respondent no. 1 has withheld 3% pension of the petitioner herein. The further prayer is for payment of the full pension amount.

2. The short facts of the case are that the petitioner had joined the Registration Department on 16.07.1973 and thereafter, had rendered 42 years of service at various places as a Lower Division Clerk in the Registration Department. On 17.07.2014, at the fag end of his career, the petitioner had joined the Registry Office at Ara, whereafter



he retired on 31.07.2015. The petitioner is stated to have been made in-charge of the record room by an office order dated 27.09.2014 and ultimately, he retired peacefully on 31.07.2015, whereafter he was being paid the full pension amount. However, suddenly, he received a letter dated 27.01.2016 from the office of the District Additional Registrar, Bhojpur, Ara, wherein an allegation was leveled regarding tampering of the records. The said letter dated 27.01.2016 was replied to by the petitioner herein on 02.02.2016 stating that no tampering of record has been committed by him. Thereafter, the respondent no. 4 had lodged an FIR bearing Ara (Nawada) PS case no. 219 of 2016 dated 04.02.2016 and then, a departmental proceeding was initiated against the petitioner herein by letter dated 14.06.2016 under Rule 43(b) of the Bihar Pension Rules. The petitioner had filed his show-cause reply and had pointed out about his eye problem regarding which evidence was also produced by the petitioner herein. It was also submitted by the petitioner in his show-cause reply that the entire work was being done by one Hasmat Hussain who was appointed by the department on contract basis to assist the petitioner herein on account of his eye problem.

3. The Inquiry Officer had submitted his inquiry report dated 22.09.2016 finding the charges to have been true whereafter, a second show-cause notice was issued to the petitioner to which, the



petitioner had submitted his reply. The disciplinary authority, by the impugned order dated 25.01.2017, has inflicted the punishment of withholding of 3% pension, on the petitioner herein.

4. The learned counsel for the petitioner has submitted that a bare perusal of the inquiry report would show that the Inquiry officer has found the charges to have been proved as against the petitioner merely on the basis of the FIR lodged by the department.

5. *Per contra*, the learned counsel for the respondents has submitted that neither any procedural irregularity nor any lacuna has been pointed out by the petitioner regarding the departmental proceeding which was conducted against the petitioner herein. It is further submitted that in paragraph no. 14 of the counter affidavit, it has been specifically stated that upon inquiry, it has been found that one Hasmat Hussain, as claimed by the petitioner to have been posted to assist the petitioner on account of his eye problem, was infact not posted as in-charge of record room and there is no evidence of misconduct against him.

6. I have heard the learned counsel for the parties and perused the records. From a bare perusal of the entire records of the case, it is apparent that the departmental proceeding has been conducted in a fair manner and there is no procedural irregularity in conduct of the said departmental proceeding. Infact, the petitioner has



also not alleged any sort of procedural impropriety or irregularity in conducting the departmental proceeding. Therefore, I am of the view that this Court cannot enter into the arena of facts which tantamount to reappraisal of evidence. It is well settled law that reappraisal of evidence is not permissible in the exercise of jurisdiction under Article 226 of the Constitution of India. Reference in this connection be had to a judgment reported in *State Bank of Bikaner and Jaipur vs. Nemi Chand Nalwaya (2011) 4SCC 584* wherein, it has been held that the Courts cannot act as an Appellate court and re-assess the evidence laid in the domestic inquiry nor interfere on the ground that any view is possible on the material on record and if the inquiry has been made fairly and properly, the question of adequacy of evidence or the reliability of evidence cannot be grounds for interfering with the findings in the departmental inquiry.

7. It is equally a well settled position in law that the High Court, in exercise of its power under Section 226/227 of the Constitution of India, shall not venture into reappraisal of the evidence and it can only see as to whether –

(a) the inquiry has been held by the competent authority;

(b) the inquiry has been held according to the procedure prescribed in that behalf;



(c) there is violation of principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by consideration of extraneous materials;

(e) the findings and the conclusions of the disciplinary authority, on their face value, is arbitrary and capricious;

(f) the disciplinary authority has failed to consider the material evidence;

(g) the disciplinary authority has erroneously admitted inadmissible evidence and

(h) the finding of fact is based on no evidence.

8. Infact, it is also well settled that the High Court is precluded, under Articles 226 and 227 of the Constitution of India, to either reappreciate the evidence or interfere with the conclusion of the departmental inquiry, in case the same has been conducted in accordance with law or go into the adequacy/reliability of the evidence to correct the error of fact.

9. I also find from the records that the Inquiry officer, apart from considering the FIR lodged by the department has also considered other aspects of the matter and has himself examined the



actual tampering of the records in presence of the petitioner herein and moreover, the petitioner himself has also admitted that on account of problem of poor vision in the eye, he was unable to work properly. Under the aforesaid circumstances, I do not consider the present case to be a case for interference.

10. In view of the aforesaid facts and circumstances of the present case, I further come to the conclusion that the disciplinary authority has been quite liberal in inflicting the punishment of withholding of 3% pension of the petitioner herein.

11. In view of what has been discussed hereinabove, I do not find any merit in the present petition, hence the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	19.03.2018
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