

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.670 of 2015

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Ram Krishna Kumar Singh Son of Late Bhagwat Narayan Singh R/o Village
Rustampur, P.S. Hayaghat, District Darbhanga at present Jansewak at Briaul Block,
Darbhanga Petitioner

Versus

1. The State of Bihar
 2. The Commissioner Darbhanga Division, Darbhanga
 3. The collector, Darbhanga
 4. The Sub Divisional Officer, Sadar, Darbhanga
 5. The Block Development Officer, Hanumanagar Block, Darbhanga
- Respondents
- =====

Appearance :

For the Petitioner : Mr. Md. Kamran

For the Respondents : Mr. SC27- KINKAR KUMAR

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 28-03-2018

Heard counsel for the petitioner and the State.

2. The petitioner has approached this Court for quashing order dated 12.5.2012 (Annexure 4) by which the District Magistrate, Darbhanga awarded punishment of (a) censure for some charges of period 2007-08 and (b) withholding of two increments with non-cumulative effect. Petitioner is also aggrieved by order dated 2.1.2014 (Annexure 5) passed by the Commissioner, Darbhanga, whereby the Service Appeal No. 43/2012-13 made by the petitioner against the said order of District Magistrate has been rejected and the order of punishment has been confirmed.

3. The undisputed facts leading to filing of the instant writ petition, is that on the basis of allegation made by one Sunaina



Devi regarding irregularity committed by the petitioner, being a Jansewak cum Secretary of Godhiari Gram Panchayat of Hanuman nagar block, he was departmentally proceeded by issuance of charge memo including “*Prapatra Ka*” on 13.8.2011 (Annexure 1/A). It was alleged that the petitioner while misappropriating the Dwadash Finance Scheme amount, got installed four tube wells of said scheme at different private places instead of public place. Enquiry report was submitted by the SDO, Sadar, Darbhanga in which specific finding has been recorded that the charges against the petitioner could not be proved and recommendation was made that the petitioner may be exonerated by the authorities by giving bond.

4. It is the case of the petitioner that the District Magistrate, Darbhanga passed the impugned order imposing the punishment by differing with the findings of the Enquiry officer without affording the petitioner opportunity of hearing as well as without assigning any reason for differing with the findings of the Enquiry officer. Learned counsel for the petitioner submits that the established norms of the departmental proceedings ensuring compliance of the Principle of Natural Justice have not been followed by the respondent authorities. He further submits that the mandate of the reasonable opportunity as well as the principles of



natural justice requires that before the disciplinary authority comes to its own conclusions, the delinquent employee should have an opportunity to persuade the Disciplinary Authority to accept the Enquiry officer's findings. In support of the submission, reliance has been placed on a decision of the Hon'ble Supreme Court in case of **Punjab National Bank and others Vs. Kunj Behari Misra**, reported in **1998(7) SCC 14**.

5. Learned counsel for the State has tried to justify the decision taken by the Collector. He states that the punishment order is a reasoned and speaking order, passed by the Collector after following the provisions of Rule 18 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (herein after referred to 'the Bihar CCA Rules').

6. Rule 18(2) of the Bihar CCA Rules mandates that Disciplinary authority, after receipt of the enquiry report as per Rule 17(23)(ii) or as per sub-rule (1), if disagrees with the findings of the inquiring authority on any article of charge, shall record its reasons for such disagreement and record its own finding on such charge, if the evidences on record is sufficient for the purpose. As per Rule 18(3) of the CCA Rules, the disciplinary authority shall forward or cause to be forwarded a copy of the inquiry report, together with its own findings to the delinquent. Admittedly, the



aforesaid statutory provisions have not been followed in the case of the petitioner nor respondents have addressed this issue in the counter affidavit.

7. In view of aforesaid discussions, order dated 12.5.2012 (Annexure 4) by which the District Magistrate, Darbhanga has inflicted punishment on the petitioner as well as the appellate order dated 2.1.2014 (Annexure 5), passed by the Commissioner, Darbhanga, in Service Appeal No. 43/2012-13, affirming the said illegal order are quashed. As a result of quashing of the impugned order, the petitioner would be entitled to all consequential benefits.

8. This order does not preclude the respondent authorities to proceed against the petitioner from the stage of 2nd show cause following the provisions of the Bihar CCA Rules.

9. The writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
CAV DATE	NA
Uploading Date	3.4.2018
Transmission Date	NA

