

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6581 of 2006

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Mahendra Prasad Singh son of late Babulal Singh, resident of village- Mahuabigha,
P.S. Obra, District Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director, Panchayati Raj, Bihar, Patna.
3. The District Magistrate, Aurangabad.
4. The Deputy Development Commissioner, Aurangabad.
5. The Panchayati Raj Officer, Aurangabad.
6. The Block Development Officer, Madanpur, District Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Dubey, Adv.,

For the Respondent/s : Mr. Rajiv Roy, G.P.1

Mr. Suresh Kumar, AC to GP 1.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date: 29-08-2018

The present writ petition has been filed for quashing the order dated 8.10.2004 passed by the disciplinary authority whereby and whereunder the petitioner has been inflicted with punishment of withholding of two annual increments with cumulative effect and has further been given the punishment of censure.

2. The brief facts of the case are that a charge sheet dated 27.3.2002 was issued to the petitioner herein alleging therein that the petitioner had though paid a sum of Rs. 500/- to the pension holders, however, he had got their signatures made in



acknowledgement of having received a sum of Rs.525/-. The petitioner had then participated in the enquiry proceeding, however, enquiry officer had closed the enquiry and submitted his enquiry report dated 10.11.2003 stating that none of the pension holders had appeared as witness to prove the charges levelled against the petitioner herein, hence the enquiry officer found it proper to close the enquiry and recommended for revocation of the suspension of the petitioner. However, the disciplinary authority, without issuing any second show cause notice, has passed the impugned order dated 8.10.2004.

3. The learned counsel for the petitioner has submitted that the present case is a case of no evidence and, in fact, the enquiry officer has not found the charges to have been proved against the petitioner herein, hence it was incumbent upon the disciplinary authority, before inflicting the order of punishment, to issue a second show cause notice to the petitioner, on the ground of differences with the findings arrived at by the enquiry officer and in absence thereof, the order of punishment is fit to be set aside. The learned counsel for the petitioner has relied upon the judgment of the Hon'ble Apex Court reported in (1998) 7 SCC 84 [**Punjab National Bank vs. Kunj Bihari Mishra**] to buttress his stand. It is further submitted that the present case is a case of no evidence.



4. Per contra, the learned counsel for the respondents has submitted that there is no procedural irregularity in the present case, hence the order of punishment is not required to be interfered with.

5. I have heard the learned counsel for the parties and perused the materials on record and find that the present case is a case of no evidence, hence the order of punishment cannot be sustained on the basis of an enquiry report which has neither been served on the petitioner herein nor has held the petitioner to be guilty of the charges levelled against him. Reference in this regard be had to the judgments of the Hon'ble Apex Court reported in (2010) 2 SCC 772 [**State of U.P. vs. Saroj Kumar Sinha** and (2009) 2 SCC 570 [**Roop Singh Negi vs. Punjab National Bank**].

6. This Court is in full agreement with the submissions made by the learned counsel for the petitioner including the one advanced on the issue that in case the disciplinary authority was of the view that the findings arrived at in the enquiry report are not correct and it had thought it proper to differ with the enquiry report or the findings of the enquiry officer, then a second show cause notice was required to be issued to the petitioner, however, such procedure has not been followed, hence resulting in violation of the principles of natural justice which consequently makes the order of punishment



dated 8.10.2004 being not sustainable in the eyes of law.

7. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, the writ petition is allowed and the order of punishment dated 8.10.2004 is set aside. It is needless to state that the consequential benefits, as a result of setting aside of the impugned order dated 8.10.2018 shall be paid to the petitioner forthwith.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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