

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16438 of 2010

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Sunil Kumar S/o Sri Anup Lal Das R/o Kalarampur, P.S.- Nayaram Nagar, Distt.-
Munger

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Personnel and Administrative Reforms, Government of Bihar, Patna
2. The Principal Secretary Department of Personnel and Administrative Reforms, Government of Bihar, Patna
3. The Under Secretary Department of Personnel and Administrative Reforms, Government of Bihar, Patna
4. The Commissioner, Tirhut Division at Muzaffarpur
5. The District Magistrate, Muzaffarpur
6. The District Magistrate, Sitamarhi

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. MANISH KUMAR

For the Respondent/s : Mr. Anshuman Singh, A.C. to A.G.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 21-06-2018

The present writ petition has been filed for quashing of the Memo No. 6982 dated 20.07.2009 issued by the Under Secretary to the Government, Department of Personnel and Administrative Reforms, Government of Bihar, Patna, whereby and whereunder the petitioner has been punished with the punishment of withholding of three annual increments with cumulative effect.

The short facts of the case are that various litigations had taken place in between the respondents and the petitioner on account of the petitioner being transferred and thereafter the said transfer order came to be quashed by this Court and the concerned District Magistrate had to comply with the order of this Court. It appears that



thereafter departmental proceeding was initiated vide resolution dated 14.6.2007 for the charges mentioned therein. However, the Enquiry Officer vide his enquiry report dated 14.12.2007 found all the charges to have not been proved as against the petitioner and exonerated the petitioner herein. However, the disciplinary authority vide letter dated 25th February, 2009 issued a second show cause to the petitioner herein by differing with the findings of the Enquiry Officer and thereafter the order of punishment dated 20.7.2009 was passed, inflicting the punishment of withholding of three increments with cumulative effect.

The learned counsel for the petitioner has raised a short point for consideration i.e. to the effect that the second show cause notice issued to the petitioner vide letter dated 25.2.2009, does not contain any reason whatsoever for differing with from the findings of the Enquiry Officer, hence the petitioner has been precluded from placing his defence before the disciplinary authority resulting in violation of the principles of natural justice.

The learned counsel for the respondents has submitted that the respondents have followed the appropriate procedure laid down for the purposes of conduct of the disciplinary proceeding as against the petitioner herein, hence no fault can be found with the disciplinary proceeding conducted as against the petitioner herein. It is further submitted that this Court would not sit in appeal and re-appreciate the



evidence led by the parties.

I have heard the learned counsel for the parties and gone through the materials on record. Admittedly, no reason whatsoever has been furnished in the second show cause dated 25.2.2009 for differing with the opinion of the Enquiry Officer which is against the principles of natural justice. Reference in this connection be had to a judgment of Hon'ble Apex Court reported in **(1998)7 SCC 84 (PNB & Ors. vs. Kunj Behari Misra)**.

In view of the aforesaid, neither the order of punishment dated 20.07.2009 nor the second show cause notice dated 25.2.2009, can be sustained in the eyes of law, hence the same are quashed. The writ petition is allowed.

Since the order of punishment dated 20.07.2009 has been set aside, consequently the order passed on the review petition filed by the petitioner dated 08.7.2010 is bound to fail and is accordingly set aside.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.07.2018
Transmission Date	

