

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17235 of 2010

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Amar Kumar Jha S/O Late Vyasheshwar Jha R/O Vill. And P.O.- Patuaha, Takth,
P.S.- Saharsa Town, Distt.- Saharsa, Bihar

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Chief Secretary Old Secretariat, Government Of Bihar, Patna
2. The Principal Secretary Department Of Finance, Old Secretariat, Govt. Of Bihar, Patna
3. The Principal Secretary Urban Development Department, Government Of Bihar, Patna
4. Director, Printing And Stationary, Bihar, Old Secretariat, Patna
5. The In-Charge Superintendent, Secretariat Press, Gulzarbagh

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha
: Mr. Yashraj Bardhan
For the Respondent/s : Mr. (GA9)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 30-07-2018

1. The present writ petition has been filed for quashing the order issued by the Superintendent of Press, In charge-cum-Sub Divisional officer, Patna City, Patna dated 14.05.2007, whereby and whereunder the petitioner has been dismissed from the service of the Secretariat Press on account of being absent from duty from 25.08.1986 to 29.09.1993 without information and for working at Saharsa Municipality without being relieved.

2. The brief facts of the case are that the petitioner was appointed as Clerk by the Superintendent of Bihar Secretariat, Press,



Gulzarbagh, Patna and he joined the said post on 16.12.1966. According to the petitioner, vide order dated 25.01.1985 issued by the Special Secretary, Urban Development and Housing Department, Patna, he was deputed to Saharsa Municipality. Nonetheless, a disciplinary proceeding was initiated against the petitioner on the charges pertaining to his absence from duty from 25.08.1986 to 29.09.1993 without any information and working in the Saharsa Municipality without being relieved by the Head Office at Gulzarbagh. The petitioner had filed his written statement and participated in the departmental inquiry. The Inquiry Officer had then conducted inquiry and submitted his inquiry report finding all the charges to have been proved as against the petitioner herein. At this juncture, it would be relevant to state that the main charge against the petitioner was regarding his unauthorized absence from duty during the period 25.08.1986 to 29.09.1993 and illegally working at the Saharsa Municipality from 01.02.1985 to 15.04.1985 as also from 06.06.1985 to 23.08.1985. The disciplinary authority had then passed an order dated 12.04.1986 awarding minor punishment to the petitioner, which was not challenged by the petitioner. Nonetheless, the Finance Commissioner, on the basis of the said inquiry report submitted by the inquiry officer, passed an order dated 26.12.1996, whereby and whereunder the petitioner was dismissed from service.



The said order dated 26.12.1996 was challenged in CWJC no. 2323 of 1997 and the same was dismissed by an order dated 31.07.1997. The petitioner had then challenged the order of the learned Single Judge dated 31.07.1997 in L.P.A. no. 1093 of 1997 which was allowed on 28.02.2000 with a direction to the respondents to serve a copy of the inquiry report on the petitioner and afford him an opportunity of hearing and thereafter, pass such order as may be deemed proper. Thereafter, a copy of the inquiry report was served on the petitioner to which, he has filed his show cause reply and thereafter, the Director-cum-disciplinary authority, Printing and Stationary, Bihar, Patna passed an order dated 20.02.2002 by which the petitioner was dismissed from service w.e.f. 26.12.1996. The said order of punishment was challenged in CWJC no. 1463 of 2002 and this Court by an order dated 25.08.2005 allowed the said writ petition and quashed the order of punishment on the ground that the order of punishment had been passed by an incompetent authority, however liberty was granted to the respondents to proceed in accordance with law.

3. The disciplinary authority had then again handed over the memo of charge dated 18.09.2006 to the petitioner herein alleging therein that the petitioner had been unauthorizedly absent for more than five years which is against Rule 76 of the Bihar Service Code. It



was further alleged that the petitioner had worked in an unauthorized manner from 06.06.1985 to 23.08.1985 in the Saharsa Municipality without the permission of the competent authority, hence the same is against Rule 16 of the Employees' Conduct Rule, 1976. The disciplinary authority had also alleged that the petitioner had worked illegally in various establishments during the period, he had remained on medical leave as also that the petitioner had received salary from two places during the same period and had withdrawn a bank loan of Rs. 1,40,000/- by making false signature of the Drawing and Disbursing Officer, State Bank, Mithapur. The said memo of charge dated 18.09.2006 was challenged in CWJC no. 12081 of 2006. In the meantime, the Inquiry Officer by his letter dated 20.09.2006 had got the charge-sheet served on the petitioner herein. The Inquiry Officer had thereafter conducted the disciplinary proceedings but the petitioner had tried to linger the proceedings on one pretext or the other, hence vide letter dated 30.10.2006, the Inquiry Officer had granted last opportunity to the petitioner to submit his written clarification regarding the charges leveled against him, failing which the proceedings would be conducted ex-parte. Thereafter, the petitioner had filed applications dated 17.10.2006 and 06.11.2006. Finally, the Inquiry Officer had submitted his inquiry report vide letter dated 25.01.2007, finding the petitioner guilty of the charges leveled



against him. Since the Hon'ble High Court has held that the disciplinary authority of the petitioner is the Superintendent, the said disciplinary authority had issued a second show cause notice to the petitioner, enclosing a copy of the inquiry report, however the petitioner had refused to receive the same, whereafter the petitioner was sent another letter by registered post to submit his defense on the question of punishment. Thereafter the impugned order dated 14.05.2007 has been issued whereby and whereunder the petitioner has been dismissed from service.

4. The petitioner had challenged the order of punishment of dismissal dated 14.05.2007 before this Court, however he withdrew the said writ petition with liberty to file an appeal, whereafter the petitioner had filed an appeal but the said appeal has also been dismissed by an order dated 17.08.2011 passed by the Principal Secretary, Finance Department. The learned counsel for the petitioner instead of arguing the present case on its own merit, has assailed the order of the State Government declaring the Sub-Divisional Officer, Patna City as the Superintendent of Press, Gulzarbagh, Patna on the ground that the Sub-Divisional Officer is not suitably qualified to be appointed as the Superintendent. The only other ground urged by the petitioner for assailing the order of punishment is that the authorities have deliberately hounded the petitioner and ultimately dismissed him



from the service.

5. I have heard the learned counsel for the parties and perused the record. I find that the present case is a classic case of an employee having evaded infliction of an order of punishment for a whole lot of about five years. I find that the allegations leveled against the petitioner has been conclusively proved and the petitioner has not been able to demonstrate as to how and why he was unauthorizedly absent from his duties for a period of more than five years and as to under what circumstances he had received pay from two establishments for the same period as well as to how and why he had worked at different places during the course of his medical leave. The petitioner has also failed to show as to under what authority and circumstances he had joined at *Saharsa Nagar Palika* without taking the permission of the office head and without being relieved from his original place of work and also regarding the petitioner having withdrawn Rs. 1,40,000/- fraudulently. No reasonable or plausible answer has been furnished by the petitioner for his severe misconduct during the course of his employment with the respondents. In view of the proved misconduct, the disciplinary authority had rightly sought for a reply of the petitioner by way of second show cause and thereafter, had dismissed the petitioner from his services by the impugned order dated 14.05.2007. The impugned order dated



14.05.2007 clearly depicts the guilt of the petitioner as also shows consideration of all aspects of the matter by the disciplinary authority, hence the said order dated 14.05.2007 does not deserve to be interfered with. Similarly, the appellate order dated 17.08.2011 is a self-speaking and a reasoned order showing full application of mind by the appellate authority, hence the same also does not require interference.

6. For the reasons mentioned hereinabove, I find that there is no merit in the present petition, accordingly the same is dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2018
Transmission Date	NA

