

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17748 of 2010

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Upendra Kumar S/O Late Baiju Singh R/O M.I.G.-343, Kankarbagh Colony, East
Ashok Nagar, P.O.- Kankarbagh, P.S.- Patrakar Nagar, Patna-800020 (Bihar)

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administrative Department, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, General Administrative Department, Government of Bihar, Old Secretariat, Patna
3. The Principal Secretary, Rural Development Department, Government of Bihar, Patna
4. The Commissioner, Munger Division, Munger
5. The District Magistrate, Begusarai, Distt.-Begusarai
6. The Joint Secretary, Rural Development Department, Government of Bihar, Patna
7. The Director, Accounts Administration & Self Employment District Rural Development Authority, Begusarai, Distt.- Begusarai
8. The Under Secretary, General Administrative Department, Government of Bihar, Old Secretariat, Patna
9. The Secretary, Bihar Public Service Commission, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nazir Alam, Adv.
For the Respondent/s : Mr. Sanjay Kumar, AC to SC-15
For the B.P.S.C. : Mr. Ranjit Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 03-08-2018

The present petition has been filed for quashing the resolution contained in letter dated 19.04.2010 whereby and whereunder punishment of censure for the year 2005-06 and withholding of three annual increments of pay with cumulative effect has been inflicted upon the petitioner herein.

2. The short facts of the case are that the departmental



proceeding was initiated against the petitioner herein vide resolution dated 23.10.2006 on the allegation that the petitioner had illegally selected 22 beneficiaries under Indira Awas Yojna, who belong to his own caste. It was further alleged that the petitioner had taken bribe from the beneficiaries. In all there were four charges, however, the enquiry officer in his enquiry report dated 27.8.2008 had virtually exonerated the petitioner and, in fact, had only found charge no.1 partially proved to the extent that the petitioner has not followed the established procedure for the purposes of grant of benefits of Indira Awas Yojna. However, the enquiry officer had not found that the petitioner had involved in corrupt practice and had taken any bribe. Thereafter, a second show cause notice dated 24.3.2009 was issued to the petitioner and thereupon the order of punishment dated 19.4.2010 has been passed.

3. The learned counsel for the petitioner has submitted that though the enquiry officer had virtually exonerated the petitioner but the disciplinary authority has not provided any reasons in the second show cause notice to differ from the findings of the enquiry officer and with a premeditated mind, the petitioner has been asked to submit show cause reply as to why appropriate punishment should not be inflicted upon him. It is further submitted that apart from narration of the sequence of events, there is no application of mind by the



disciplinary authority while inflicting punishment vide order dated 19.04.2010.

4. Per contra, the learned counsel for the respondents has submitted that all the necessary procedures required to be followed during the course of the disciplinary procedure has been followed and thereafter, the order of punishment has been passed, hence this Court would not sit as an appellate Court, thus the order of punishment is fit to be upheld.

5. I have heard the learned counsel for the parties and perused the materials on record and I find that the disciplinary authority has committed a gross irregularity inasmuch as it has not given any reason for differing from the finding of the enquiry officer while issuing show cause notice dated 24.03.2009 and moreover, the same has been issued with a premeditated mind and the same shows that the disciplinary authority had already made up its mind to inflict punishment upon the petitioner herein which is in violation of the principles of natural justice. Reference in this connection be had to a judgment of the Hon'ble Apex Court reported in *(2013) 7 SCC 251 (S.P. Malhotra vs. Punjab National Bank)*.

6. It is equally true that the order of punishment dated 19.4.2010 smacks of non-application of mind and is mere narration of sequence of events, hence the same can not be upheld. Reference in



this connection be had to a judgment in reported in *2018 (3) PLJR 329*
[Anand Kumar Bardhan vs. The State of Bihar & Ors.].

7. At this juncture, the learned counsel for the petitioner submits that the B.P.S.C. has also not granted concurrence to the punishment which has been inflicted vide order dated 19.04.2010 except the punishment of stoppage of two annual increments with non-cumulative effect.

8. For the reasons mentioned herein above, the writ petition is allowed and the order of punishment dated 19.04.2010 is quashed.

(Mohit Kumar Shah, J)

BTiwary/Md. Rashid

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	

