

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19590 of 2010

=====

SHALIGRAM JHA S/O SHRI SAHDEO JHA R/O VILL & P.O.RAMPUR
DIH, P.S.SHAHKUND, DISTT-BHAGALPUR(BIHAR)

... .. Petitioner/s

Versus

1. THE TILKAMANJHI BHAGALPUR UNIVERSITY, BHAGALPUR
THROUGH ITS REGISTRAR
2. THE VICE CHANCELLOR , TILKAMANJHAI BHAGALPUR
UNIVERSITY , BHAGALPUR CUM THE DIVISIONAL
COMMISSIONER BHAGALPUR
3. THE REGISTRAR, TILKAMANJHI BHAGALPUR UNIVERSITY
BHAGALPUR
4. THE HEAD OF DEPARTMENT , P.G. DEPARTMENT OF BANGLA
TILKAMANJHI BHAGALPUR UNIVERSITY BHAGALPUR
5. THE HON'BLE CHANCELLOR OF THE UNIVERSITIES OF BIHAR RAJ
BHAWAN, PATNA, BIHAR

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha
For the Respondent/s : Mr. Shivendra Kishore

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 27-08-2018

1. Heard learned counsel appearing on behalf of the
petitioner and counsel appearing on behalf of the University.

2. Petitioner is aggrieved by the order contained in
Annexure-13 dated 05.07.2006 whereby the petitioner was
terminated from services in purported exercise of power under
Section 11 of the Bihar State University Act and Article 9.1 C of
the Service Statute.

3 Mr. Purushottam Kumar Jha, learned counsel
appearing on behalf of the petitioner submits that after the order
contained in Annexure-13 petitioner preferred an appeal before the



Hon'ble Chancellor in the year 2006 itself, but the appeal remained pending for consideration long time as such, the petitioner has ultimately filed petition for withdrawal of the petition pending before the Hon'ble Chancellor.

4. On behalf of the University submission has been advanced that the petitioner was issued show-cause notice vide Annexure-11 and thereafter petitioner was terminated.

5. Learned counsel for the petitioner submits that in the case of major punishment, the respondent University was required to conduct full dressed departmental inquiry and without holding the departmental proceeding with reasonable opportunity to defend the order of termination was passed by the respondent contained in Annexure-13 whereby the petitioner has been dismissed.

6. Mr. Purushottam Kumar Jha, learned counsel appearing on behalf of the petitioner submits that it is well founded that order of termination is a major punishment and as such order passed cannot be sustained without reasonable opportunity of hearing accordingly order contained in Annexure-13 cannot sustain particularly in view of the facts that there was serious allegation which cast aspersion on the character of the petitioner as well In view of the Apex Court Judgment in the case



of H.C. Goel reported in AIR 1964, S.C. 364. Para 27 of the aforesaid judgment is reproduced herein for ready reference:-

“ Now, in this state of the evidence, how can it be said that the respondent even attempted to offer a bribe to Mr. Rajagopalan? Mr. Rajagopalan makes a definite statement that the respondent did not offer him a bribe. He merely refers to the fact that the respondent took out a paper from his wallet and the said paper appeared to him like a hundred rupee note double folded. Undoubtedly, Mr. Rajagopalan suspect the respondent's conduct, and so, made a report immediately. But the suspicion entertained by Mr. Rajagopalan cannot, in law, be treated as evidence against the respondent even though there is no doubt that Mr. Rajagopalan is a straight-forward and an honest officer. Though we fully appreciate the anxiety of the appellant to root out corruption from public service, we cannot ignore the fact that in carrying out the said purpose, mere suspicion should not be allowed



to take the place of proof even in domestic enquiries. It may be that the technical rules which govern criminal trials in courts may not necessarily apply to disciplinary proceedings, but nevertheless, the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished, applies as much as regular criminal trials as to disciplinary enquiries held under the statutory rules. We have very carefully considered the evidence led in the present inquiry and borne in mind the plea made by the learned Attorney-General, but we are unable to hold that on the record, there is any evidence which can sustain the finding of the appellant that charge No.3 has been proved against the respondent. It is in this connection and only incidentally that it may be relevant to add that the U.P.S.C. considered the matter twice and came to the firm decision that the main charge against the respondent had not been established.”



7. In view of the discussion made above the writ petition is allowed.

8. Learned counsel for the petitioner submits that during pendency of the writ petition, petitioner on attaining age of superannuation has retired. In view of the above the respondents may take fresh decision only after granting all the benefits payable to the petitioner in terms of the quashing of the order contained in Annexure-13.

9. With the aforesaid the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

T.Kr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

