

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4713 of 2006

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Ravi Kishore Sahay, son of Late Shashi Bhusan Sahay, resident of Mohalla Boring Road, Police Station Srikrishnapuri, District- Patna.

.... Petitioner/s

Versus

1. Bihar State Food and Civil Supplies Corporation Limited through the Chairman-cum-Managing Director, having his office at Sone Bhawan, 5th Floor, Biharchand Patel Path, Patna.

2 The Chief of Administration, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, 5th Floor, Barchand Patel Marg, Patna.

3. The Enquiry Officer, Bihar State Food and Civil Supplies Corporation Limited, Sone Bhawan, 5th Floor, Barchand Patel Marg, Patna. ,

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukeshwar Dayal, Adv.

Mr. Vikas Mohan, Adv.

For the Respondent/s : Mr.R.S.Pradhan, Adv.

Mr. Amrendra Narayan Rai, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date: 31-08-2018

The present writ petition has been filed for quashing the order of punishment of dismissal from service dated 29.03.2004 and the order passed on the review petition of the petitioner dated 08.07.2004.

2. The brief facts of the case are that a departmental proceeding was initiated and a charge sheet was served on the petitioner which is dated 27.03.2001 on the allegation that the petitioner had engaged in black marketing of Sugar and had misappropriated a huge quantity of Sugar. The petitioner had participated in the enquiry and the enquiry officer had submitted his report on 14.01.2003 wherein he found that though the petitioner does not appear to be directly involved in the offence alleged, however, his role in misappropriating the Sugar was still found and defalcation of Rs. 10.75 lacs was proved. Thereafter, a second show cause notice dated 15.01.2004 was issued to the petitioner and on consideration of the reply to the



second show cause notice, the order of punishment of dismissal from service was passed which is dated 29.03.2004. Thereafter, the petitioner had filed a review petition but the same was also dismissed by an order dated 08.07.2004.

3. The learned counsel for the petitioner has submitted that admittedly, the enquiry officer as also the disciplinary authority have not found direct complicity of the petitioner in the alleged occurrence but nonetheless, the petitioner has been awarded the punishment of dismissal from service. It is further submitted that the findings of the enquiry officer is based on no evidence inasmuch as the two witnesses, who had even submitted written depositions, have not pointed out any misdemeanour on part of the petitioner and have nowhere deposed that the petitioner had misappropriated the Sugar, hence the conclusion of the enquiry officer is perverse and is fit to be set aside. Lastly, it is argued that the basis for passing the impugned order of punishment of dismissal from service dated 29.03.2004 is the past conduct of the petitioner, which in the submission of the learned counsel for the petitioner, could not have been made a ground for inflicting the punishment of dismissal.

4. I have heard the learned counsel for the petitioner and perused the materials on record. I find that the present case is a case of no evidence and the finding of the enquiry officer is perverse. Reference in this regard be had to the judgments of the Hon'ble Supreme Court reported in (2009) 2 SCC 570 (**Roop Singh Negi vs. Punjab National Bank**) and (2010) 2 SCC 772 (**State of U.P. vs. Saroj Kumar Sinha**). Further, I find that the disciplinary authority while passing the impugned order of punishment of dismissal from service dated 29.03.2004 has also



not applied his mind and in fact has reached at a conclusion on the basis of perverse enquiry report, hence, the order of punishment dated 29.3.2004 is fit to be set aside and is accordingly quashed. Consequently, as a result of quashing of the order of punishment of dismissal from service dated 29.03.2004, the order passed by the reviewing authority dated 08.07.2004 has no legs to stand and is accordingly, set aside.

5. The writ petition stands allowed with a direction to the respondents to pay all consequential benefits to the petitioner forthwith.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.05.2019
Transmission Date	N/A

