

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2172 of 2015

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Dr. Madhu Kant Jha Son of Late Rama kant Jha Residing at Flat No-10, Lali Bawan, Nehru Nagar, P.S- Patliputra in the town and district of Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. Principal Secretary, Department of Animal and Fishries Resources, Bihar, Patna.
3. Speical Secretary, Department of Animal and Fishries Resources, Bihar, Patna.
4. Joint Secretary, Department of Animal and Fishries Resources, Bihar, Patna.
5. Deputy Secretary, Department of Animal and Fishries Resources, Bihar, Patna.
6. Under Secretary, Department of Animal and Fishries Resources, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha, Advocate
For the State : Mr. Hari Shankar Roy, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 20-04-2018

The brief facts giving rise to the writ petition are that on the basis of audit report submitted by the Accountant General, Bihar an amount of Rs. 2,53,477/- was directed to be recovered from the retrial dues of the petitioner upon his retirement form the post of Assistant Director Poultry, Regional Poultry Farm, Bella, Muzaffarpur. Subsequent thereto he was served with a show cause in respect of the same.

2. Considering the post decisional hearing to be contrary to the principles of natural justice, this Court under order dated 07.03.2013 passed in C.W.J.C. No. 1957 of 2013 quashed the



impugned order and directed that if recovery of the said amount has already been made, the same must be refunded to the petitioner. However, in respect of the conclusion arrived at in the proceedings and in view of the consequential order passed in the proceedings for stopping of 25 percent pension of the petitioner, this Court had allowed liberty to the petitioner to assail the same. Thereafter, the petitioner has filed a writ petition bearing C.W.J.C. No. 9943 of 2008.

3. The instant writ petition has been filed assailing the findings of the Disciplinary Authority recording the petitioner's guilt in the proceedings conducted under provisions of Rule 43b of the Bihar Pension Rules. The charge memo was issued to the petitioner under memo no. 69 dated 28.01.2010 and after enquiry the report was submitted by the Enquiry Officer which is dated 11.05.2012 (Annexure 7 to the writ petition). The petitioner has thereafter, submitted his response to the second show cause notice which was issued to him by the Disciplinary Authority and after considering the same, the impugned order of punishment dated 18.02.2013 has been awarded to the petitioner to deduct 25 percent of the petitioner's pension.

This Court finds from the punishment order that in respect of charge no 4, the quantification of alleged loss is without any basis. The same is based on hypothesis, surmises and conjectures



and without reference to any record. He submits that findings in respect of the same are perverse. The petitioner’s reply to the second show cause notice has not been placed on record.

4. This court is not in a position to examine what was the plea raised before the Disciplinary Authority against his findings. However, this Court would find that in view of the said submissions the petitioner may avail of his statutory remedy prescribed under Rule 24 (2) of the Bihar CCA Rules by filing his review. In case such a comprehensive review is filed placing all the facts before the authority in the form of memorial as prescribed under Rule 24(2), the authority would be obliged to consider the same by a reasoned and speaking order in accordance with law and disposed off the same within eight weeks from the date of receipt/production of a copy of this order along with memorial/review.

5. The writ application is disposed off with the aforesaid observations.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

