

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1423 of 2016

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Surendra Singh Son of Late Bal Govind Prasad r/o village - Ram Chandrapur, P.O. Dhurgon, Via Ekangarsarai, P.S. Ekangarsarai, Distt. - Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Education Department, Govt. of Bihar, New Secretariate, Patna
2. The Director (Secondary Education) Education Department, Govt. of Bihar, New Secretariate, Patna
3. The Regional Deputy Director of Education Patna Division, Patna
4. Regional Deputy Director of Education Saran Division, Chapra
5. The District Education officer cum Inquiry officer, Siwan
6. The Treasury officer, Patna
7. The Accountant General, Bihar, Beerchand Patel Path, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Adv.
For the Respondent/s : Mr. Sunil Kumar, AC to GA12

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 09-10-2018

Heard learned counsel for the parties.

In this case, the petitioner is challenging the order no. 3207 dated 12.12.2015, whereby and whereunder, the quantum of pension of the petitioner has been reduced by 30% on account of the fact that the authority has found the charges have been proved against the petitioner in a departmental enquiry.

A criminal case was lodged against the petitioner vide Vigilance P.S. Case No. 50/2012 wherein an allegation has been made that the petitioner has prepared a wrong panel, even kept certain persons who have crossed the upper limit of age, under



conspiracy and even appointed them, further allegation has been made that all the records, pertaining to the recruitment, has been misplaced, on account of lodging of criminal case and looking to its seriousness, the Department decided to initiate a major penalty proceeding against the petitioner, appointed the District Education Officer, Siwan as Enquiry Officer who, in turn, instead of conducting the departmental enquiry himself in terms of Rule 17, transmitted all the records relating to the departmental proceeding to the Regional Deputy Director of Education, Saran. On receipt of the document, the Regional Deputy Director, Saran Division, Chapra, addressed a letter dated 13.1.2014 to the District Education Officer stating therein that he was assigned the job of holding departmental enquiry but, after giving the show-cause, he had not proceeded further, abdicated the duty of holding enquiry. But, in turn, the Regional Deputy Director, Saran recorded his own finding (Annexure-10) and transmitted the same vide letter dated 17.8.2018 to the Regional Deputy Director of Education, Saran Division, Patna and, in turn, the Regional Deputy Director of Education, Patna Division issued the second show-cause and passed the order reducing 30% pension of the petitioner.

The procedure that has been adopted by the District Education Officer is unknown to legal world, when he was



assigned the job for conducting the enquiry, it is he, who was to conduct the enquiry, was not required to abdicate or assign the work or transmit the work to his higher official and it is nothing but, shirking of responsibility of conducting enquiry which was assigned to him.

In nutshell, the enquiry has been conducted but, proper authority committed procedural irregularity in holding the enquiry proceeding. In that view of the matter, the Memo No. 3207 dated 12.12.2015 and the letter no. 204 dated 29.12.2015, both passed by the Regional Deputy Director of Education, Patna Division, Patna, are set aside and the matter is remanded back again to the District Education Officer, Siwan to conduct the enquiry in accordance with Rule 17 of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and after recording his findings, he will transmit the same to the Disciplinary Authority who will give second show-cause, after considering the explanation, will take a decision in accordance with law.

The entire process must be completed within a period of six months from the date of receipt/production of a copy of this order.



This Court is not giving any opinion on the merit of the case as there is completely a procedural illegality and, hence, this Court is interfering with the impugned order.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.10.2018
Transmission Date	

