

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16708 of 2016

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Anil Kumar Choubey, S/o Sri Peyare Lal Choubey, Resident of Machargama, P.S. Yogapatti, District - West Champaran at Bettiah.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Joint Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. Anil Kumar Mishra, Incharge Circle Officer, Bhagwanpur, At + P.O. - Bhagwanpur, District - Kaimur, Posted at Incharge Circle Officer, Daniyawa, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Adv. with
Mr. Mukesh Kumar Singh, Adv.
Mr. Gyanendra Kumar, Adv.

For the Respondent/s : Mr. Arun Kr. Bhagar, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-05-2018

Heard Mr. Rajendra Prasad Singh, learned senior counsel appearing for the petitioner and Mr. Arun Kumar Bhagar, learned Assisting Counsel to Additional Advocate General No.12 for the State.

The petitioner is aggrieved by the order bearing Memo No.625 dated 6.6.2016, whereby the Principal Secretary, Department of Revenue and Land Reforms in exercise of powers vested under rule 14 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Disciplinary Rules') as amended from time to



time has while imposing a punishment of censure on the petitioner, also directed that the petitioner would not be posted as Circle Officer for next three years. The punishment is resting on the charge of disobedience, unauthorized absence as well as lack of interest in duty.

It is the argument of Mr. Singh, learned senior counsel appearing for the petitioner that even if the petitioner has been directed not to be posted against the post of Circle Officer, yet he cannot be reverted to a lower post vide order bearing Memo No.423 dated 16.9.2016, whereby the petitioner is sought to be reverted to the post of Kanoongo, Settlement Office, Katihar. In support, he makes reference to a judgment of this Court passed in **CWJC No.16269 of 2016 (Ajit Kumar Singh Vs. the State of Bihar)** which was heard analogous with a batch of cases, to submit that this very order dated 16.9.2016 was put to challenge in the batch of cases and this Court by an exhaustive judgment has been pleased to quash the same together with the respective consequential orders issued pursuant thereto. He thus submits that in view of the judgment and order passed by this Court in the case of **Ajit Kumar Singh** (supra) Annexure 1 stands quashed. In so far as the opinion of the Principal Secretary, Department of Revenue and Land Reforms as present in Memo No.625 dated 6.6.2016 is concerned



he submits that despite the opinion present, not to post the petitioner against the post of Circle Officer for next three years but in absence of any consequential order posting the petitioner to such equivalent post, the petitioner would stand restored to his post.

This Court taking note of the submissions noted, vide order dated 19.12.2017 granted time to the learned State Counsel to file counter affidavit after examining the judgment of this Court in the case of **Ajit Kumar Singh** (supra) but despite lapse of almost five months the affidavit of the respondents is yet wanting.

This Court is not persuaded by any request for further adjournment. The matter is thus considered in the backdrop of law laid down by this Court in the case of **Ajit Kumar Singh** (supra) as well in view of the undisputed circumstances existing where no consequential order posting the petitioner to any equivalent post has been passed pursuant to the opinion of the Principal Secretary, Department of Revenue and Land Reforms present in his order bearing Memo No.625 dated 6.6.2016.

In result, in view of the judgment and order of this Court passed in the case of **Ajit Kumar Singh** (supra) the notification bearing Memo No.423 dated 16.9.2016 in so far as the petitioner whose name appears at serial no.13 is concerned, is quashed and set aside and since no consequential order has been passed by the



concerned department in the light of the opinion expressed by the Principal Secretary, Department of Revenue and Land Reforms in the order bearing Memo No.625 dated 6.6.2016 at Annexure 1, the petitioner is restored to his post of Incharge Circle Officer, Daniyawa in the district of Patna which post according to Mr. Singh, the petitioner was holding at the stage when the order was passed.

The writ petition is allowed.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	24-05-2018
Transmission Date	NA

