

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13155 of 2017

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Sudhanshu Kumar Choubey, Son of Late Sita Ram Choubey, Resident of
Mohalla- Flat No. 202, Bhawani Palace, Anandpuri, West Boring Canal Road,
Police Station- Krishnapuri District- Patna, Bihar- 800001.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Principal Secretary, General Administration Department, Government of Bihar.
3. The Additional Secretary, General Administration Department, Government of Bihar.
4. The Joint Commissioner, Departmental Enquiry Patna Division, Patna.
5. The District Magistrate, Muzaffarpur.
6. The Deputy Development Commissioner, Muzaffarpur.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. P.K. Shahi, Sr. Advocate Mr. Mithilesh Kumar Rai, Advocate Mr. Virendra Kumar Ray, Advocate Mrs. Ruchi Singh, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad - SC-8

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 03-12-2018

Heard learned counsel for the petitioner and
learned counsel for the State.

2. In this case, the petitioner is challenging the resolution vide memo no.14530 dated 25.10.2016, issued by the General Administration Department, Government of Bihar, under the signature of the Under Secretary of the Government, whereby and whereunder punishment in the nature of censure



for the year 2005-06, stoppage of two increments with non-cumulative effect and during the suspension period i.e. from 09.02.2009 to 18.01.2010, the decision will be taken later on under Rule 14 of the Bihar Government Servant (Classification, control and Appeal) Rule, 2005 on the ground of negligence in execution of the scheme while posted as Block Development Officer at Gaighat Bolock, Muzaffarpur. Further prayer has been made to quash the memo no.7435 dated 16.06.2017 issued under the signature of the Under Secretary of the Government, by which the review/appeal filed by the petitioner against the aforesaid punishment order has been dismissed and the punishment imposed upon the petitioner has been kept intact and for the period of suspension he has been granted 75% salary.

3. The petitioner was posted as Block Development Officer at Gaighat Block, Muzaffarpur. A complaint was made of wrong doing of the petitioner, whereafter a Committee was constituted, which did not find any irregularity in food for work. Again the matter was examined at the level of Deputy Development Commissioner, Muzaffarpur, who also did not find anything against the petitioner. One Amit Kumar Mandal has filed a complaint in the Court of Special Judge, Vigilance,



that gave rise to Vigilance Case No.98 of 2008. The police after investigation submitted Final Form that has been accepted by the Judge concerned, but in parallel a departmental proceeding was initiated. The Inquiry Officer submitted report in favour of the petitioner, but the disciplinary authority has differed with the view of the Inquiry Officer and in his own manner has arrived to a finding of commission of misconduct and inflicted aforesaid punishment upon the petitioner. Against that, the petitioner filed a review/appeal before the appellate authority. The appellate authority has found first charge not proved but the second charge has been found to be proved and the punishment has not been disturbed.

4. Many aspects of the argument has been made by learned counsel for the petitioner and the State, but there is not need to go deep into the matter as the effect of punishment i.e. censure for 2005-06 and stoppage of two increments with non-cumulative effect is over and 75% salary has already been paid to the petitioner. When the effect of the punishment is already over, there is not need to decide the case on its merit but this Court is only giving an observation that when the effect of the punishment is over, it will not be taken into consideration while granting any benefit to the petitioner in the nature of



promotion or otherwise and the authority will decide the case of the petitioner on its merit.

5. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	10.12.2018
Transmission Date	N/A.

