

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11247 of 2005

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Deepak Kumar Verma Son of Late Surendar Kumar Verma, resident of
village-Judge Bharsara, P.S.-Bihiya, District-Bhojpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna
3. The District Magistrate, Kaimur, Bhabhua

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. T.N.Martin, Sr. Advocate Mrs. Kanchan Kumar
For the Respondent/s	:	Mr. (Gp6)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 28-08-2018

The present writ petition has been filed for quashing the order of termination dated 29.10.2001 as also the appellate order dated 21.06.2005.

2. The brief facts of the case are that a departmental proceeding was initiated against the petitioner herein by the respondents and a charge-sheet dated 01.11.1999 was issued to the petitioner alleging therein that the petitioner had not paid the amount under the Indira Awas Yojna to the beneficiaries and had, in fact, misappropriated a sum of Rs. 74,500/-. The petitioner had participated in the inquiry and the inquiry officer submitted his inquiry report dated 12.05.2001 wherein it was found that the petitioner had already paid the aforesaid sum of Rs 74,500/- to the beneficiaries, however, the inquiry officer



was of the opinion that the said payment was not made in time, hence, a minor punishment of warning could be awarded against the petitioner herein. The disciplinary authority had then issued a second show cause notice dated 28.07.2001 and after seeking the reply of the petitioner, the order of punishment dated 29.10.2001 was passed whereby and whereunder the services of the petitioner was terminated primarily on the pretext that the petitioner had not submitted any proof to the effect that the beneficiaries had received the said sum of Rs. 74,500/-. The petitioner had then filed an appeal, however, the same was dismissed by an order dated 21.06.2005.

3. The learned senior counsel for the petitioner has submitted that firstly, the petitioner has not been indicted in the inquiry report submitted by the inquiry officer and without differing with the same and assigning any reasons for the ground of difference with the finding of the inquiry officer, the disciplinary authority could not have passed the order of punishment. It is further submitted that the present case is a case of no evidence inasmuch as not even a single witness has been examined for proving the charges levelled against the petitioner. In any case, it is submitted that the charge has been found to be false inasmuch as the beneficiaries have already received the



amount to be paid under the Indira Awas Yojna and none of the beneficiaries have been produced by the prosecution to prove the charges that they have not received the amount. The learned senior counsel has referred to two judgments i.e. the ones reported in **(2018) 3 PLJR 32** and in **(2018) 2 PLJR 692** to buttress his stand.

4. I have heard the learned senior counsel for the petitioner and perused the materials on record.

5. It is a trite law that the prosecution is required to lead evidence both oral and documentary as also prove the documents produced in the disciplinary proceedings in order to prove the charges. Reference, in this connection, be had to a judgment rendered by the Hon'ble Apex Court in the case of ***State of U.P. vs. Saroj Kumar Sinha in (2010) 2 SCC 772*** and the one rendered by the Hon'ble Apex Court in the case of ***Roop Singh Negi vs. The Punjab National Bank in (2009) 2 SCC 570***.

6. In any view of the matter from the inquiry report, it is apparent that the petitioner had, in fact, paid the amount alleged to have been misappropriated, to the beneficiaries, hence, the charges levelled against the petitioner cannot be said to have been proved. In fact, the inquiry officer has himself admitted



that the amount alleged to have been misappropriated by the petitioner has been paid to the beneficiaries. None of the beneficiaries have been examined by the prosecution to prove the charges, as against the petitioner herein, hence, the present case is a case of no evidence, squarely covered by the judgments rendered by the Hon'ble Apex Court in the cases of Saroj Kumar Sinha (supra) & Roop Singh Negi (supra).

7. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the order of punishment dated 29.10.2001 cannot be permitted to stand, being perverse and in the teeth of the principles of law laid down by the Hon'ble Apex Court, hence, the same is set aside. Consequently, as a result of quashing of the order of termination, the appellate order is bound to fall and accordingly, the appellate order dated 21.06.2005 is also quashed.

8. The writ petition stands allowed with all consequential benefits.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	28.05.2019
Transmission Date	NA

