

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17557 of 2010

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Poonam Singh wife of late Ramayan Prasad, R/O Vill./Mohalla- Prof. Colony,
North Shastrinagar, P.S.- Shastri Nagar, Distt.- Patna.

.... Petitioner/s

Versus

1. The State of Bihar Represented through the Chief Secretary, Govt. of Bihar,
Patna
2. The Principal Secretary, Personnel and Administrative Reforms Deptt., Govt.
of Bihar, Patna
3. The District Magistrate, Sitamarhi
4. The Block Development Officer, Bajjpati, Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Bishwa Nath Pd. Singh
	:	Mr. Ram Hriday Prasad
	:	Ms. Maruti Kumar
For the Respondent/s	:	Mr. P.N. Shahi, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 13-07-2018

The original writ petitioner has challenged the order of punishment dated 15.6.2007 whereby and whereunder the original petitioner has been inflicted the punishment of censure for the year 2001-02, withholding of four increments with non-cumulative effect and it has been further directed that the original petitioner shall not be posted as Drawing and Disbursing Officer for ten years.

The short facts of the case are that a charge sheet dated 30.6.2002 was issued against the original petitioner herein and a departmental proceeding was conducted. The petitioner had participated in the said departmental proceeding and finally the



enquiry officer had submitted the enquiry report dated 09.12.2004 wherein charge no.1 and 6 were found to be partly proved and charge no.3 was found to be fully proved. However, the rest of the charges were found not to have been proved during the course of enquiry. Thereafter, the petitioner was given second show cause notice by letter dated 29.6.2005 and he was instructed to file his response to the enquiry report. After the original petitioner had filed his response to the enquiry report, the department had passed the impugned order of punishment dated 15.6.2007.

The learned counsel for the petitioner has raised a short point for assailing the impugned order dated 15.6.2007 to the effect that though the disciplinary authority had sought response from the petitioner on the enquiry report but no opportunity was granted to the original petitioner to file his response to the punishment inflicted upon him by the impugned order dated 15.6.2007. It is submitted that such denial of opportunity amounts to non-compliance of the principle of natural justice. In this regard, reference be had to a judgment reported in 1998(7) SCC 84 (**Punjab National Bank vs. Kunj Behari Misra**).

Per contra, the learned counsel for the respondents has submitted that the disciplinary authority has followed the proper procedure, hence no interference is required by this Court. Nonetheless, the learned counsel for the respondents has not been able



to show that any notice was given to the petitioner seeking his response on the punishment inflicted on him by the impugned order dated 15.6.2007.

Having regard to the facts and circumstances of the case, I find that the impugned order dated 15.6.2007 is fit to be quashed on the ground that the disciplinary authority has failed to seek a response from the petitioner on the punishment inflicted upon him, hence the principles of natural justice have been violated.

Accordingly, the writ petition is allowed and the impugned order dated 15.6.2007 is quashed.

(Mohit Kumar Shah, J)

BTiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.08.2018
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