

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15745 of 2017

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Bharat Kumar Singh, Son of Sri Ras Bihari Singh, Resident of At+P.O.- Pakri, Ara (South of Gas Agency), District- Bhojpur, Bihar, Pin- 802302, Posted as Post Graduate Teacher (History) at Jawahar Navodaya Vidyalaya, Barun, Aurangabad.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Human Resources Development Department, New Delhi.
2. The Commissioner, Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi- 110048.
3. The Joint Commissioner (Personnel) Navodaya Vidyalaya Samiti, A-28, Kailash Colony, New Delhi- 110048.
4. Sri Akhil Kumar Shukla, Son of Karuna Shankar Shukla, Deputy Commissioner, Navodaya Samiti, Regional Office, Boring Road, Patna- 800013, Permanent resident of Village+P.O.- Mangahi (Brahman Tola), District- Farukhabad (U.P.)
5. Sri Sachidanand Ray, Principal, Jawahar Navodaya Vidyalaya, Barun, Son of Ram Nath Roy, Aurangabad Bihar Pin- 824112, Permanent resident of Village- Gokul Mathura, P.O.- Risatpur, District- Bhagalpur (Bihar), Pin- 813209.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Devendra Kumar Singh, Adv.

Mr. Abhay Kumar, Adv.

For the Respondent/s : Mr. Siddhartha Prasad, Adv.

Mr. Sunil Kumar, Adv.

For the Union of India : Mr. Satyavrat Verma, (C.G.C.)

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 08-01-2018



Heard learned counsel for the petitioner and the counsel for the Navodaya Vidyalaya Samiti.

The O.A. of the present petitioner was dismissed vide order dated 25.07.2017 by the Central Administrative Tribunal, Patna Bench Patna. The order in question was passed in O.A. No. 768 of 2011.

The short question, which has been raised by the learned counsel for the petitioner, is whether the Tribunal missed out on a basic principle that a disproportionate kind of punishment to the allegation makes the punishment vulnerable as it violates Article 14 of the Constitution of India.

The facts are that the petitioner, who is a teacher in the Navodaya Vidyalaya at Aurangabad in the State of Bihar, was directed by the principal of the school to shift to the house master's quarter, which the petitioner refused to do. Because of such refusal to shift, a disciplinary proceeding was initiated, inquiry was held and punishment of withholding of three increments with cumulative effective was passed.

No doubt, in the interest of discipline as well as ready availability of the house master at the campus of the school is paramount and, therefore, the direction issued by the Principal to the petitioner for shifting in the house in question was warranted in



better administration of the school. However, it also emerges that the house in question had certain problems, which was required to be attended, but because of the reluctance on the part of the petitioner even after the repairings having been carried out, the disciplinary action was initiated.

The nature of the direction and the so called non-compliance on the part of the petitioner, no doubt, was unwarranted. It is the indiscretion on the part of the petitioner and his failure to perceive the seriousness of the requirement of shifting into the house master's accommodation was not understood and taken in the right spirit. However, it was not an issue which should be turned into a disciplinary issue. I think a very firm intervention by the Principal even otherwise would have made the petitioner see reason.

Since withholding of three increments with cumulative effect is a major punishment looking at the nature of the so called indiscipline, if at all, it can be termed as so, in the opinion of this Court, is harsh and disproportionate.

In that view of the matter, the order of punishment dated 28.01.2014 passed by the disciplinary authority is set aside. The matter, however, is remanded back to the disciplinary authority to pass any other order befitting the so called misconduct of the petitioner. In our opinion, even a warning or caution for good



conduct in future recorded in his A.C.R. would also achieve the same result.

The writ is allowed with the above observation.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/Devendra

AFR/NAFR	NAFR
CAV DATE	NA
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