

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12145 of 2017

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Kanhaiya Singh, Son of Late Ram Ayodhya Singh, Resident of Near Sahid Bhawan, Mahavir Tola, P.S. Aarah, Nawada, District Bhojpur at present posted as Medical Officer, Sub Divisional Officer, Sub Divisional Hospital, Jhanjharpur, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
3. Joint Secretary, Health Department, Government of Bihar, Patna.
4. Additional Secretary, Health Department, Government of Bihar, Patna.
5. Under Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
6. Deputy Secretary, Health Department, Government of Bihar, Patna.
7. District Magistrate cum Collector, Madhubani.
8. Civil Surgeon-cum-Chief Medical Officer, Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajiv Kumar Singh

For the Respondent/s : Mr. Ramadhar Singh, Gp-25

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 14-03-2018 The District Magistrate, Madhubani by an order dated 30.07.2011 has come to the conclusion that the allegation regarding deliberate absenteeism from work has not been proved, however, it has been stated that the petitioner deliberately remained on leave. Nonetheless, the District Magistrate has come to the conclusion that there is no evidence of the fact that the petitioner had remained on leave for a long period of time without any reason. The appellate authority i.e. the Additional Secretary to the Government by an order dated 15.05.2015, on the basis of



the said report of the District Magistrate, Madhubani, though has relied upon the said recommendation of the District Magistrate but has extraneously stated that the charges have been found to be proved whereas the District Magistrate has not found the charges to have been proved.

From perusal of the report of the District Magistrate, Madhubani as also the order of the Additional Secretary dated 15.05.2015 containing the gist of the case as also the findings, it is apparent that the order dated 09.10.2014, by which the punishment has been imposed on the petitioner herein is based on no evidence, perverse, suffers from non-application of mind and is contrary to the enquiry report of the District Magistrate, Madhubani, which in fact goes to exonerate the petitioner herein, hence based on extraneous materials.

Having regard to the facts and circumstances of the case, there is no option but to quash the order dated 09.10.2014 as well as the order dated 15.05.2015 passed by the respective authorities.

The present writ petition is allowed.

(Mohit Kumar Shah, J)

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