

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19849 of 2016

=====

Yugul Kishore Singh S/o Late Rajdeo Singh, R/o Village- Sirkohiya, P.S.- Saraiya, Distt- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Panchayati Raj Deptt. Patna, Bihar.
2. The Commissioner, Tirhut Commissioner, Muzaffarpur.
3. The District Magistrate, Muzaffarpur.
4. The Block Development Officer, Sahebganj, Muzaffarpur.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Subodh Kuumar Sinha Mr. Manish Chandra Gandhi
For the State	:	Mr. Kumar Alok- SC-7 Mr. Vijay Bharti, AC to SC- 7

=====

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 27-08-2019 The petitioner, at the relevant point of time, was posted as Panchayat Secretary, Gram Panchayat Jagdishpur, in the district of Muzaffarpur.

On the basis of a complaint received against the petitioner that he was demanding gratification in discharge of his official duty, a raid was conducted by the State Vigilance Bureau. He was caught by the Vigilance Officials, allegedly, while accepting bribe of Rs. 25,000/- from the complainant, which led to registration of Vigilance P.S. Case No. 21 of 2012. He was taken into custody and sent to jail. Subsequently, a departmental inquiry was initiated against him with the issuance



of a charge-sheet on 31.10.2012. The petitioner was asked to submit his written statement of defence, which he had submitted. There were two charges framed against him, both relating to the demand of gratification made by him and subsequent acceptance of the bribe, in the presence of the Vigilance Officials and witnesses. The petitioner, in his written statement of defence, admitted that he had received the said amount of Rs. 25,000/-, but denied to have received the said amount by way of bribe. He took a defence in the departmental inquiry that, as a matter of fact, the complainant had taken from the petitioner a sum of Rs. 25,000/- as friendly loan with an assurance that he would repay the same within a short time. Failure on the part of the complainant to repay the amount had caused anguish to the petitioner and he had, for that reason, chastised the complainant. According to him, the complainant, thereafter, made a false complaint to the Vigilance Police Station that the petitioner was demanding gratification. The trap was laid thereafter. The petitioner was under the impression that the complainant was repaying the amount of loan and while accepting the amount, he was apprehended by the Vigilance Officials.

The Inquiry Officer submitted his report on 5.10.2013



with the conclusion that, though on the basis of material available the charge against the petitioner is not established, but at the same time, he could not be fully exonerated of the charges, considering the fact that he was caught red-handed by the Vigilance Officials. The inquiry report was submitted to the disciplinary authority. The District Magistrate Muzaffarpur, who is admittedly the disciplinary authority, remitted the matter back to the Inquiry Officer for further inquiry, recording his reason to the effect that the Inquiry Officer had not given a definite report and had not taken into account the materials available and the charges framed in correct perspective. After the matter was remitted to the Inquiry Officer, a second inquiry report came to be submitted on 25.02.2014. The Inquiry Officer, this time, held the charges framed against the petitioner to have been established, upon analysis of the evidence available on record of the departmental inquiry.

This is not in dispute that the report of the Inquiry Officer was served on the petitioner. The disciplinary authority, agreeing with the finding of the Inquiry Officer, imposed punishment of dismissal from service on the petitioner by order dated 18.06.2014. The petitioner preferred an appeal against the order of the disciplinary authority before the Divisional



Commissioner, Tirhut Division, Muzaffarpur, which has been dismissed by order dated 09.02.2015.

The orders dated 18.06.2014, passed by the disciplinary authority and 09.02.2015, passed by the appellate authority have been put to challenge in the present writ application.

I have heard the learned counsel, appearing on behalf of the petitioner and learned AC to SC-7, appearing for the State of Bihar.

At the very outset, learned counsel for the petitioner, assailing the impugned orders, has submitted that the disciplinary authority could not have directed for a fresh inquiry, once a report was already submitted by the Inquiry Officer, holding that the charges could not be established. According to him, the disciplinary authority ought not to have directed for a fresh inquiry and for that reason alone, the entire action stands vitiated. He has placed reliance on a decision of this Court rendered on 08.07.2019 in CWJC No. 15140 of 2017 (**Dharm Nath Mishra Vs. The State of Bihar and others**).

The aforesaid submission is not acceptable to this Court, for the reasons recorded hereinafter.

It can be easily noticed from the order of the



disciplinary authority that there was no direction for *de novo* inquiry. The disciplinary authority, by order dated 28.01.2014, after considering the earlier report of the Inquiry Officer, had remitted the matter back to him in the background of the fact that he had not submitted a definite report in respect of the charges framed against the petitioner. The reason so assigned by the disciplinary authority in the said order dated 28.01.2014, in my view, was justified, valid and not in breach of any statutory provision. The report of the Inquiry Officer dated 5.10.2013 was not at all clear and definite, which can be easily noticed.

Further, Rule 18(1) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short 'the Rules'), authorizes a disciplinary authority, while considering an inquiry report, to remit the case to the inquiring authority for further inquiry and report and the said provision enjoins a duty upon the inquiring authority to proceed to hold further inquiry, according to the provisions of the Rule 17 as far as may be.

Rule 18(1) of the Rules reads thus:-

“18. Action on the inquiry report (1)
the disciplinary authority, if it is not itself
the inquiry authority may, for the reasons to
be recorded by it in writing, may remit the
case to the inquiry authority for further
inquiry and report and the inquiring



authority shall thereupon proceed to hold the further inquiry according to the provisions of Rule 17 as far as may be.”

The present case is, thus, clearly distinguishable from the case of **Dharm Nath Mishra** (supra).

Learned counsel for the petitioner has next submitted that even the complainant was not produced in the departmental inquiry in support of the charge and in the absence of the evidence of the complainant, the charge of corruption could not have been proved. He has further submitted that some of the beneficiaries were examined in the departmental inquiry, who also did not support the charge of misconduct, rather their evidence supported the *bona fide* of this petitioner. According to him, there was only one witness examined in the departmental inquiry, who had supported the charge. He contends that, in the above background, the finding of guilt recorded by the Inquiry Officer and accepted by the disciplinary authority is perverse and, therefore, requires interference by this Court.

Learned AC to SC 7, while defending the impugned orders, has submitted that there is no procedural irregularity pointed out on behalf of the petitioner, which could be said to have caused any prejudice to the petitioner’s case and there is no



violation of principles of natural justice. This Court, in such circumstance, should not interfere with the decision of the disciplinary authority, when there is no flaw in the decision-making process.

I have carefully perused the pleadings on record and the orders impugned, including the annexures, which have been brought on record with the pleadings.

While considering the decision of a disciplinary authority taken on the basis of a departmental inquiry, this has to be kept in mind that preponderance of probabilities is the required standard of proof to establish a charge. In the present case, there was an allegation against the petitioner of having demanded a sum of Rs. 25,000/- and having received the same as bribe. He was caught red-handed by the Vigilance Officials, which fact is not in dispute. The petitioner's explanation that he had advanced loan to the complainant, which was being repaid by the complainant, has not been accepted by the Inquiry Officer and the disciplinary authority. It is noteworthy that one of the witnesses, in his evidence before the Inquiry Officer, deposed that the petitioner had made a demand of Rs. 5000/- each from beneficiaries under the *Indira Awas Yojna*, as bribe.

This Court, exercising jurisdiction under Article 226



of the Constitution of India, need not re-appreciate the evidence adduced in course of departmental inquiry, which has already been appreciated by the Inquiry Officer, disciplinary authority and the appellate authority.

Considering the facts and circumstance, as noted above, I find no merit in this writ application, which is accordingly dismissed.

There shall be no order as to costs.

(Chakradhari Sharan Singh, J)

HR/-

U			
---	--	--	--

