

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6616 of 2019

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Md. Manzoor Alam, S/o Md. Kalim Resident of Village- Tirkoul, Near Imambada, P.O. and P.S. Sandesh, District- Bhojpur, Presently Posted as Senior Deputy Collector, Kishanganj.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Giri, Advocate
For the Respondent/s : Mr. Md. Nadim Seraj (GP-5)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 01-05-2019

Heard Mr. Sanjay Kumar Giri, learned advocate for the petitioner and Mr. Nadim Seraj, learned GP-5.

2. The petitioner, a civil servant, has challenged the order passed by the Disciplinary Authority dated 17.07.2018 contained in Memo No. 9428 whereby he has been found to be guilty of showing lack of alacrity in conducting the affairs of the State and has been inflicted with a punishment of withholding of three pay-increments with cumulative effect.

3. It has been submitted on behalf of the petitioner that since the order on face of it is not sustainable



in the eyes of law, he has chosen to challenge the same before this Court, without exhausting the remedy available to him of review. While substantiating his arguments, learned advocate for the petitioner has referred to the Inquiry Report which, in clear and unambiguous terms, exonerates the petitioner of all the charges.

4. For the sake of completeness, it is stated here that the reason for subjecting the petitioner to the domestic inquiry was death of 24 persons by drowning in the event of a kite festival which was organised by the banks of river ganges where the Hon'ble Chief Minister of the State was also a visitor.

5. The substratum of the allegation against the petitioner therefore is that he was not alert in reviewing the safety situation and did not promptly make arrangements for supply of fuel for the motor boats to be pressed into use. Had the petitioner shown some despatch as expected of a civil servant, such an accident could have been averted.

6. What the charge therefore indicates is that if the surveillance and motor boats would have been used



before the beginning of the festival, perhaps such a tragedy would not have occurred.

7. The Inquiry Officer, after going through the entire details of the deputation of the petitioner, situs of the occurrence/tragedy, financial powers of the employee and other factors, came to the conclusion that the employee/petitioner did not have the financial authority to provide fuel coupons for which he had to obtain approval/sanction of the District Magistrate.

8. In any view of the matter, the Inquiry Officer found that within twenty minutes, fuel was made available for the motor boats and the tragedy which occurred could not have been attributed, in any manner, to the conduct of the petitioner. The Inquiry Report also took into account the opinion given by Two Men Committee which was constituted for the purposes of looking into the conduct of the petitioner and the reasons for such tragedy even though the Chief Executive of the State was to visit the site for the festival.

9. It has been submitted on behalf of the petitioner that the Disciplinary Authority chose to differ with



the opinion of the Inquiry Officer and sent a notice to him to be replied. The notice which has been annexed with the writ petition does not state/enumerate any reason for differing with the Inquiry Report.

10. Be that as it may, after receiving the reply, the Disciplinary Authority, by the order impugned, has held the petitioner to be guilty of not being as alert as he should have been and has inflicted a punishment of withholding three pay- increments with cumulative effect.

11. The argument of the learned counsel for the petitioner is that even while passing the order impugned, not a single reason has been assigned for differing with the Inquiry Report and except for reiterating the contents of the charge, even the consideration of the defence of the petitioner is not reflected in the order which has been passed by the Disciplinary Authority.

12. However, since the petitioner has a remedy of preferring a review petition, this Court directs the petitioner to file the memorial of review against the order of the Disciplinary Authority within a period of three weeks. The



Reviewing Authority shall, on receipt of such memorial, decide the same, preferably within a period of two months.

13. Needless to state that all the grounds available to the petitioner and which have been urged in the present petition shall be taken note of by the Reviewing Authority while passing any order.

14. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03/05/2019

