

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7817 of 2019

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Shahid Perwaz, aged about 50 years, male, Son of Late Nazir Alam, resident of Village Station Road, P.S.- Samastipur, District- Samastipur, presently posted as Additional Land Acquisition Officer, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
3. The Principal Secretary, Panchayat Raj, Government of Bihar, Patna.
4. The Commissioner, Trihut Division, Muzaffarpur.
5. The District Magistrate, Muzaffarpur.
6. The Special Secretary, General Administrative Department, Government of Bihar, Patna.
7. The Additional Secretary, General Administrative Department, Government of Bihar, Patna.
8. The Deputy Secretary, General Administrative Department, Government of Bihar, Patna.
9. The Deputy Development Commissioner, Muzaffarpur.
10. The Establishment Deputy Collector, Muzaffarpur.
11. The Sub Divisional Officer (E), Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tej Bahadur Singh, Sr. Adv.
For the Respondent/s : Mr. Ruchikar Jha, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 10-05-2019

Heard Mr. Tej Bahadur Singh, learned Senior



Advocate for the petitioner and Mr. Ruchikar Jha, learned AC to SC-8.

2. The petitioner has challenged the order dated 18.03.2016, passed by the Under Secretary, General Administrative Department, Govt. of Bihar, whereby the petitioner has been inflicted with a punishment of censor and stoppage of one increment of pay without cumulative effect.

3. The challenge is rested on several grounds, viz., (i) the authority subjecting the petitioner to such punishment has himself found that the petitioner was posted much later at the place where the alleged breach of responsibility led to the initiation of a domestic proceeding against the petitioner and (ii) the proceedings were initiated on the basis of some observation made by the Hon'ble *Lokayukta* in connection with some other complaint and when the conduct of the petitioner was under question directly or indirectly any order which could have the potential of being read against the petitioner, it was of utmost necessity that the petitioner had to be noticed in terms of Section 25 of the Lokayukta Act, 2013.



4. Apart from this, Mr. Singh has pointed out that the findings of the Disciplinary Authority clearly reveal that other persons who were posted before the petitioner at the concerned place, were, in fact, more responsible for not showing deserved/required alacrity on the part of the Government servants. If this was the observation of the Disciplinary Authority, the petitioner did not deserve, it has been argued, even a minor punishment like censor and withholding of increment of pay without cumulative effect.

5. The other limb of argument of Mr. Singh is that though the nature of punishment is minor; nonetheless it has had a cascading effect and the petitioner was not promoted, whereas his juniors stood promoted. This impact of the punishment would continue to be attached with the petitioner for his entire service career.

6. Thus, it has been urged that the order dated 18.03.2016 surely needs a re-look especially with respect to the fact that the petitioner cannot at all be held to be responsible and if it were only for showing lack of alertness on the part of the petitioner to point out earlier irregularities



in the discharge of governmental function, the responsibilities were more and perhaps glaring with respect to other Government servants, who have neither been noticed nor put to any departmental proceeding and consequently have not been adversely affected by any punishment. This, it has been urged, does not only militate against the principle of fairness, but also reflects that the petitioner has been singled out without any specific reason for being punished.

7. The learned counsel for the State however has defended the order impugned in the present petition on the ground that the same was passed on 18.03.2016. The petitioner, if was aggrieved by the punishment as also the dismissal of the review petition preferred by him, ought to have approached the Court earlier before the issue of promotion was taken by the Department.

8. This objection is not worth entertaining for the reason that the petitioner has been punished for such breach of Government work when he was not even posted at that place. The very initiation of the proceeding against the



petitioner can be faulted with because the origins of the proceeding is traceable to a different proceeding before the *Lokayukta*, in which the petitioner was never noticed under Section 25 of the Lokayukta Act, 2013.

9. Considering the aforesaid facts, the order dated 18.03.2016 as also the order passed in review set-aside and the case is remitted to the Disciplinary Authority, viz., the Deputy Secretary, General Administrative Department, Govt. of Bihar (respondent No. 8) to write out a fresh order in accordance with law within a period of six weeks of the receipt/production of a copy of this order.

10. The petition is allowed accordingly.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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