

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17627 of 2013

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Virendra Paswan, S/O Sri Dewan Paswan, Resident Of Village - Sheikhpura,
Post Office - Ghoshi, Police Station - Ghoshi, District - Jehanabad Bihar And
Was Working As Lower Divisional Clerk In The Officer Of Deputy Labour
Commissioner, Department Of Labour Resources, Government Of Bihar,
Patna

... .. Petitioner/s

Versus

1. The State Of Bihar represented through the Chief Secretary, Govt. of Bihar,
Patna.
2. The Principal Secretary, Department Of Labour, Government Of Bihar,
Patna
3. The Commissioner-Cum-Disciplinary Authority, Department Of Labour
Resources, Government Of Bihar, Patna
4. Sri Ram Chandra Chaudhary, The Enquiry Officer-Cum-Joint Labour
Commissioner, Department Of Labour Resources, Government of Bihar,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar, Advocate Mr. Krishna Chandra, Advocate
For the Respondent/s	:	Mr. Rajiv Roy, GP-1 Mr. Suresh Kumar, AC to GP1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 14-03-2019

Heard the parties.

In the present case, the petitioner is challenging the order as contained in Memo No. 53 dated 03.07.2013 passed by the Commissioner-Cum-Disciplinary Authority, Department of Labour Resources, Government of Bihar, Patna, by which the petitioner has been dismissed from his service.

A Vigilance Case No. 04 of 2010 was registered against the petitioner. He was arrested and released on bail. He was



suspended. Memo of charges have been served upon the petitioner vide Memo No. 155 dated 30.09.2010 and Memo No. 156 dated 30.09.2010 and a charge of serious allegation was framed. The inquiry proceeding was initiated against him in which the petitioner has requested for supply of certain documents, as per the petitioner, which are very essential for his defence. As per the petitioner, those documents were not supplied to him that caused prejudice to his defence. In the inquiry proceeding, two persons have been examined, one is from prosecution side and another is from defence side. The presenting officer has been examined on behalf of the prosecution and the petitioner himself examined in his defence and on that basis, the inquiry report has been submitted by the Inquiry Officer and finally, the petitioner has been dismissed from service.

Learned counsel for the petitioner submits that he has raised the point that relevant documents, which are essential in nature, were not supplied to him as well as the Presenting Officer could not have been cited or examined as a witness in the inquiry proceeding inasmuch as he has further stated that the persons, who were required to be examined, have not been examined to prove the charges leveled against the petitioner and even those who have been named in the memo of charge were not brought to examine in



inquiry proceeding and the Inquiry Officer submitted the inquiry report and on that basis the service of the petitioner has been dismissed, as per the petitioner, which is illegal.

This Court has directed the State to produce the original records of the inquiry proceeding, which has been produced and fairly the State has submitted that the persons, who have been shown to be members of the raiding party or the seizure list witnesses, have not been examined. The charges cannot be held to be proved without the proper evidence. The Presenting Officer only can qualify those documents which were brought during inquiry, but he cannot narrate the incident which was witnessed by the persons, who were the members of raiding party or seizure list witnesses.

This Court is of the view that the finding is not based on the proper evidence and has not examined the witnesses who were required to be examined. Reliance can be placed on the judgments of *Roop Singh Negi Vs. Punjab National Bank & Ors., reported in (2009) 2 SCC 570* and *State of Uttar Pradesh and Ors. Vs. Saroj Kumar Sinha, reported in (2010) 2 SCC 772*.

In view of the aforesaid judgment this Court finds that inquiry has not been done in the proper manner and on that basis the petitioner has been dismissed from service.



Accordingly, the order of dismissal dated 03.07.2013 passed by the Commissioner-Cum-Disciplinary Authority, Department of Labour Resources, Government of Bihar, Patna, is quashed and matter is remanded back with a direction to the Inquiry Officer to conduct and complete the inquiry within a period of six months from the date of receipt/production of a copy of this order.

The petitioner will be entitled to the consequential relief on the basis of the outcome of the inquiry proceeding and the action taken.

It goes without saying that the petitioner will be treated to be in status as a suspended employee and will be entitled to the identical relief as are given to a suspended employee.

With the aforesaid observations and directions, this writ application is allowed to the aforesaid extent.

(Shivaji Pandey, J)

V.K.Pandey/
S. Katyayan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2019
Transmission Date	NA

