

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15725 of 2006

Subhash Chandra Das son of Late Madhav Chandra Das resident of Mohalla
Nawratan Hata Ps Khajanchi Hat Dist. Purnea

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Collector-cum- District Magistrate, Purnea
3. The Additional Collector Purnea cum- Enquiry Officer
4. The Subdivisional Officer, Dhamdaha-cum- Enquiry Officer
5. The Subdivisional Officer-cum- Baisi Purnea-cum-Presenting Officer
6. The Subdivisional Officer Sadar , Purnea
7. The Executive Magistrate, Sadar, Purnea
8. Circle Officer, Baise, Purnea
9. Circle Officer, Damdaha, District Purnea
10. Divisional Commissioner, Purnea

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Umakant Verma
For the Respondent/s : Mr.Prashant Pratap, GP 2

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-11-2019

Counsel for the petitioner is permitted to implead
Divisional Commissioner, Purnea as respondent no.10 to the writ
petition in course of the day.

Heard counsel for the petitioner and counsel for the
respondents-State.

It is submitted by counsel for the petitioner that entire
pensionary dues of the petitioner have been forfeited on account of
order dated 22.03.2006 passed by the District Magistrate, Purnea
(Disciplinary authority) pursuant to an enquiry. Enquiry was
conducted alleging that the petitioner had forged document and
obtained undue employment as scheduled castes candidate.



Petitioner was appointed as Revenue Karamchari. The issue being enquired was that the petitioner being a member of unreserved category had obtained employment by impersonating himself as scheduled castes candidate on basis of forged certificate. On the same set of charge relying on the same evidence criminal prosecution arising out of Baisi P.S. case no. 43/2004 was also instituted against the petitioner. It is submitted that the petitioner has been acquitted under order dated 17.05.2019 passed by the Judicial Magistrate, Ist Class, Purnea in GR No. 1044/2004/ CIS No. 1474/2013/ TR No. 3654/2018. The same is Annexure 26 to the supplementary affidavit recently filed by the petitioner.

Counsel for the petitioner has placed reliance on the decision of the Apex Court in the case of Capt. M.Paul Anthony vs. Bharat Gold Mines Ltd & ors reported in (1999) 3 SCC 679 and G. M.Tank vs. State of Gujrat & ors reported in (2006) 5 SCC 446 . He submits that the allegations which were subject matter of the criminal proceedings and those for which he was punished in the departmental proceedings are one and the same.

In the circumstance, having regard to acquittal in the criminal case, authorities are obliged to reconsider the punishment in view of law laid down by the apex court in the above noted two judgments.



It is submitted that in order to facilitate such consideration petitioner would approach the Divisional Commissioner, Purnea (respondent no.10).

Counsel for the State has no objection, if claim is left for consideration before the Divisional Commissioner in so far as this court has not expressed any opinion on the merits of the case.

In view of the aforesaid submissions and since consideration has to be done by the respondents-authorities, pendency of the instant proceedings would be futile as no adjudication is called for.

If petitioner approaches respondent no.10 within three weeks then respondent no.10 shall consider petitioner's claim in light of law declared by the apex court by reasoned and speaking order expeditiously, without undue delay and preferably within three months thereafter.

Writ petition is disposed of.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.12.2019
Transmission Date	NA

