

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16243 of 2006

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1. Chandramani Devi wife of Late Chandra Shekhar Choudhary
 2. Sunil Kumar son of Late Chandra Shekhar Choudhary
 3. Amresh Kumar son of Late Chandra Shekhar Choudhary
 4. Poonam Kumari daughter of Late Chandra Shekhar Choudhary
 5. Rupam Kumari daughter of Late Chandra Shekhar Choudhary
- All resident of village Godhana PS Bachchawara Dist. Begusarai

... .. Petitioner/s

Versus

THE STATE OF BIHAR and ORS

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajni Kant Jha
For the Respondent/s : Mr.Harish Kumar, GP 8

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 22-11-2019

Original petitioner was a village level worker in Sahebpur Kamal block. The beneficiaries were identified for Integrated Rural Development Project (IRDP) scheme. The identified beneficiaries were to be given facility of loan.

It is in this background that the petitioner had been proceeded on a charge that he had manipulated the original list of beneficiaries. On account of his manipulation 22 ineligible persons are alleged to have been approved as beneficiaries and loans were granted to them.

After a detailed enquiry, petitioner was visited with penalty of dismissal under order dated 04.07.2001. The same was also assailed by him in Service appeal before Divisional Commissioner, Munger against the order of the District Magistrate, Begusarai.

Counsel for the petitioner submits that process of identification and approval of list of beneficiaries involved the petitioner and three others,



namely, Block Agriculture Officer, Block Development Officer, and the Branch Manager of the Bank also.

Petitioner however was singled out for being awarded severe punishment, whereas there is nothing on record to show what punishment has been awarded to others involved in the process. The only available detail is in respect of Block Agriculture Officer who was in-charge of approving the list of beneficiaries. To him the authorities have awarded minor penalty of warning.

Petitioner's allegation is of disparity in the matter of awarding, punishment without there being any distinguishing feature. It is his submission that punishment in the circumstance is unsustainable and disproportionate as another similarly situated person who was also responsible for approving the list of beneficiaries has been awarded merely a warning.

It is trite law that the courts are refrained from substituting their own opinion, once punishment has been awarded, unless punishment awarded is shocking to the conscious of the courts. Submission of counsel for State to this extent is well taken as an undisputed proposition. Having observed so, this court would further observe that in the instant case, quantum of punishment of dismissal awarded by the District Magistrate on 04.07.2001 has been found to be shocking to the conscious of the appellate authority itself. Conclusions of the appellate authority in this regard are as follows:-

“ From the facts and documents on record it is clear that through Chandrashekhar Choudhary has been singled out for severe punishment, no action against the senior officials who are equally or more responsible, was even initiated till this office raised the question. A mere warning has been recommended against the B.A.O, it is claimed that there are intention to



chargesheet the Block Agriculture Officer and no one knows what action has been taken against the Bank Manager.

In view of the aforesaid circumstance, I am forced to conclude that Sri Chandrashekhar Choudhary has been singled out unfairly for severe punishment. I further hold that the punishment meted out to him is too harsh hence the order of dismissal is set aside and punishment is reduced to stoppage of two increments with cumulative effect.

Further from the date of suspension to the date of reinstatement, Sri Chandrashekhar Choudhary will not be entitled to pay and allowances.”

The conclusions of the appellate authority are based on a clear comparative assessment in respect of punishment being meted out to the petitioner, with the Block Agriculture Officer to whom punishment of warning has been awarded. Though comparison has been made to Block Agriculture Officer but there is nothing in the order of the appellate authority to substantiate grant of punishment more than that awarded to Block Agriculture Officer. Decision of the appellate authority to award major punishment of withholding of two annual increments with cumulative effect and depriving the petitioner dues other than subsistence allowance is not founded on any reason supporting the grant of such punishment. Such punishment awarded by the appellate authority in the background of his own conclusions that petitioner as well as Block Agriculture Officer, both were responsible for finalizing the list of beneficiaries is clearly arbitrary. The appellate authority has not assigned any reasons whatsoever in support of the graver punishment awarded to the petitioner.

Punishment of withholding two annual increments with cumulative effect under order dated 17.09.2003, when Block Agriculture Officer, who has been found by the Appellate Authority also to be responsible for approval of the list of beneficiaries, and to whom merely a warning has



been issued is arbitrary, discriminatory and clearly unsustainable in the eyes of law is therefore, quashed.

Appellate authority should pass order afresh maintaining parity with Block Agriculture Officer. Original petitioner (employee) is no more and his legal heirs have already been substituted in the instant proceedings.

In the circumstance, this court would consider that interest of justice demands that the due consequential benefits on account of quashing of punishment awarded under order dated 17.09.2003 by the Divisional Commissioner, Munger be paid to the petitioners expeditiously without any undue delay, and preferably within eight weeks from the date of receipt/production of a copy of this order.

Writ petition stands allowed.

(Madhuresh Prasad, J)

s.hassan/-

AFR	AFR
CAV DATE	NA
Uploading Date	03.12.2019
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