

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17337 of 2011

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Binod Kumar Jha, son of Dineshwar Jha, Resident of Village - Bhagwanpur,
Post Office-Yogibena Bazar, P.S. - Bathanaha, District-Madhubani, at Present
Posted as Clerk, District Provident Fund Office, Madhubani.

... .. Petitioner

Versus

1. The State of Bihar
2. The Secretary, Department of Finance, Government of Bihar, Patna.
3. The Secretary (Expenditure), Department of Finance, Government of Bihar Patna.
4. The Joint Commissioner, Accounts Administration, Provident Fund Directorate, Department of Finance,
5. The Assistant Director-Cum-Conducting Officer, Provident Fund Directorate, Pant Bhawan, Patna.
6. The District Provident Fund Officer Patna-Cum-Presenting Officer.
7. The District Provident Fund Officer Sitamarhi.
8. The District Provident Funder Officer Madhubani.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar Roy, Advocate
For the Respondent/s : Mr. Anshuman Singh, A.C. to A.G.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 22-01-2019

Heard learned counsel for the petitioner and
learned counsel for the State.

In this case, the petitioner is challenging the order
dated 30.06.2011, whereby and whereunder the punishment of
compulsory retirement has been inflicted upon the petitioner.

The petitioner was working as Clerk in the Finance
Department of Provident Fund Directorate and posted at
Sitamarhi in the District Provident Fund Office. He was



transferred to Muzaffarpur District Provident Fund Office. In January, 2001 he was posted in the Provident Fund Directorate, Patna and also in Secretariat Cell. Again he was transferred to Sitamarhi District Provident Fund Office and on 02.08.2011 he was transferred to Madhubani District Provident Fund Office. While discharging the duty during the year 2003 in the Secretariat Cell of Provident Fund Directorate, Patna, due to mistake the advance of Rs.1,00,000/- made to one Bisundeo Paswan, was not recorded in the ledger book and for that a charge memo was issued to him with "Prapatra-K", wherein specific allegation has been made with regard to failure to adjust an amount of Rs.1,00,000/- in the ledger book. The petitioner filed his reply to the Inquiry Officer, there he has accepted his own guilt and gave explanation that due to work load he failed to make entry in the ledger book. The Inquiry Officer, on the basis of his admission, has arrived to a finding of proving charge of the misconduct against the petitioner. Whereafter, the Inquiry report was handed over to him for reply. In the reply, the petitioner has taken plea that there was no actual loss to the Government. The disciplinary authority after perusing the reply, considering the attending circumstances including the reply filed before the Inquiry Officer, in which he has admitted his



guilt, awarded the punishment of compulsory retirement under the provision of the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005 and under Section 74 of the Bihar Service Code.

Learned counsel for the petitioner submits that the order cannot be passed in both the provisions, inasmuch as, in a situation when the inquiry was initiated on the charge of misconduct and the Inquiry officer has arrived to finding (मंतव्य) of commission of such misconduct.

Even if this Court arrives to a finding that the action cannot be taken under Rule 74 of the Bihar Service Code, but the fact remains that the petitioner cannot assail the order merely mentioning wrong provisions of the Bihar Service Code in the order of punishment when the proceeding was initiated under the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005.

Learned counsel for the petitioner has argued that the disciplinary authority should have served the second show-cause on the quantum of punishment, which they have failed to do so.

This Court has asked learned counsel for the petitioner to show under what provision it is required to be



followed, but he failed to point out any provision obliging the disciplinary authority to give notice on the quantum of penalty.

Learned counsel for the petitioner also argued on the quantum of punishment.

As this Court can interfere with the order of punishment if the order of punishment is outrageous defiance of logic that no reasonable person, in normal circumstance, could ever have passed such order.

In such view of the matter, this Court does not find any merit in this writ petition, accordingly, the same is dismissed.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	01.02.2019
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