IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11822 of 2019

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Anil Kumar, S/o Late Brahmdeo Prasad, Resident of Mohalla-Sheikhpura Riding Road (in the house of Smt. Shakuntala Devi), P.O.-B.V. College, P.S. Airport, Dist.-Patna.

... ... Petitioner/s

Versus

1. The Union of India through its C.A.G.,New Delhi.
2. The Accountant General, C.A. Bihar, Patna
3. The Deputy Accountant General(Admin), Office of the Pr. Accountant General(Audit), Bihar, Patna.
4. The Examiner of Local Accounts, Bihar, Patna.
5. The Accountant Officer, A.G. (A and E) Sectt., Bihar, Patna.
6. The Assistant Account Officer, A.G. (A and E) Sectt, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Advocate
Mr. Jayant Kumar Karan, Advocate

For the Respondent/s : Mrs. Nivedita Nirvikar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-06-2019

Heard learned counsel for the petitioner.

This petition questions the correctness of the impugned judgement of the Tribunal whereby the punishment of dismissal awarded to the petitioner by the respondent-authority has been upheld.

The charge against the petitioner was of participation in a transaction that resulted in the siphoning of almost

16,50,000/-. The enquiry was conducted and the petitioner sought certain documents from the respondents in the shape of check list. From the findings recorded it is evident that the office copy of the check list and the carbon copy of the same which was available was attested and such attested copies were inspected by the petitioner. The petitioner therefore had full opportunity to contest the contents of the said documents and it was also found during enquiry that the petitioner himself was responsible for certain manipulation and insertion of fake names in the check list. These findings of fact have been found to be proved on the basis of evidence on record.

Learned counsel submits that the petitioner was not actually held responsible for any direct embezzlement and therefore the punishment awarded to the petitioner of dismissal is not only disproportionate but is not in accordance with the evidence that has been found during the enquiry. The same has been controverted on behalf of the respondents and it is urged that as a matter of fact that it was the manipulation and the involvement of the petitioner which was established from the copy of the check list and the dispatch register that ultimately led to the finding against the petitioner.

We have considered the submissions raised and we find that the findings recorded by the Tribunal on facts are based on the entire evidence that was available during the enquiry which could not be successfully controverted or meted out by the petitioner either during the enquiry or even thereafter before the Tribunal. In the writ petition filed before us except for a bald assertion that the punishment awarded is not based on cogent evidence and that the punishment is disproportionate, there is no other material on the basis whereof a contrary view can be taken.

We, therefore, do not find any reason or error in the impugned order of the Tribunal whereby the extreme penalty of dismissal has been awarded which, in our opinion, is also appropriate keeping in view the nature of the charges levelled against the petitioner and having been found to be proved.

Accordingly, the petition is dismissed.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.06.2019
Transmission Date	