

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4476 of 2016

Praveen Kumar son of Sri Ram Chandra Singh, Resident of Sri Krishna Nagar, P.s.- Budha Colony, District- Patna, at present posted as District Programme Officer at District- Samastipur

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Old Secretariat, Patna
3. Shri Anil Kumar, Joint Secretary, General Administration Department, Govt. of Bihar, Old Secretariat, Patna
4. The Commissioner, Magadh Division, Gaya
5. The Collector, Gaya. At District- Gaya

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Rajiv Kumar Singh Mr. Sita Ram Singh
For the Respondent/s	:	Ms. Archana Meenakshi, GP 6 Mr. Karandeep Kumar, AC to GP 6

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 16-05-2019 Heard learned Counsel for the petitioner and the learned Counsel for the State.

The petitioner, member of the Bihar Administrative Service, was posted as the Officer In-charge of the District Legal cum Revenue Section in the Collectorate at Gaya. On account of disobedience and other misconduct a proceeding was initiated against him under charge memo dated 27.2.2009. Pursuant to enquiry, enquiry report had been submitted by the Enquiry Officer. The Enquiry Officer found seven out of eleven charges not to be proved and in respect of the remaining four the



report of the Enquiry Officer was that the same did not relate to the petitioner. The effect of the enquiry report was that none of the charges against the petitioner were proved. The Disciplinary Authority thereafter has under the impugned order dated 13.5.2013 awarded punishment of withholding of two annual increments with non cumulative effect.

It is submitted by State Counsel that since a minor punishment has been awarded there was no infirmity in the process adopted by the authorities. The petitioner has also preferred a review under Rule 24(2) of the Bihar CCA Rules, 2005 and the same has been rejected by the Government on 12.11.2013.

Since the petitioner was subjected to a proceeding by submission of charge memo, this Court is of the view that the course open to the Disciplinary Authority, under the Bihar CCA Rules was to issue a second show cause as per the provisions contained in Rule 18(2) of the Bihar CCA Rule in the event he proposed to differ with the findings of the Enquiry Officer favorable to the petitioner. This is also the law as reiterated by Courts from time to time and one such judgment of the Apex Court in the case of ***Punjab National Bank vs. Kunj Behari Mishra*** reported in ***1998(7) SCC 84*** is worth noticing.



Once the enquiry report has been submitted favorable to the petitioner, the Disciplinary Authority in the event he proposed to differ with the findings therein, is obliged to give a show cause containing tentative grounds of difference and having considered the response and allowing the delinquent opportunity to persuade the Disciplinary Authority to follow the view of the Enquiry Officer, a decision contrary thereto can be taken. Such procedure has not been followed in the instant case. Even the order dated 13.5.2013 proposing to inflict punishment does not contain any reason for not accepting or disagreeing with the findings of the Enquiry Officer.

The order dated 13.5.2013 issued by the General Administration Department is, therefore, not legal and is hereby quashed. Order dated 12.11.2013 passed on the petitioner's review which has confirmed the illegal order dated 13.5.2013 therefore must collapse. The order of the reviewing authority dated 12.11.2013 is also quashed.

As a result of quashing of the impugned orders the petitioner would be entitled to consequential benefits.

The writ petition is allowed.

(Madhuresh Prasad, J)

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