

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9252 of 2000

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Ravindra Thakur son of Late Rasdhari Thakur resident of A-3 Vijay Nagar,
Rasbihari Path, Patna-14

... .. Petitioner/s

Versus

THE STATE OF BIHAR and ORS

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siya Ram Shahi
For the Respondent/s : Mr.AAG 3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 28-06-2019

Heard Mr. Shahi, learned counsel for the petitioner and
learned counsel for the respondents-State.

Petitioner was Assistant Engineer. He was proceeded
against on some charges regarding violation of Rule 16 of Bihar
Government Service Conduct Rule, 1976. Petitioner as a result of
said proceedings was visited with punishment dated 08.07.2000 of
adverse entry in his ACR in the year 1994-95, censure as well as
withholding of one annual increment. Petitioner was also deprived
of dues other than subsistence allowance for the period of
suspension.

Mr. Shahi, learned counsel for the petitioner would
submit that effect of said punishment has ceased long back. Today
the petitioner is not effected by the same.



However, he submits that modification of order by the authority, by order dated 04.08.2000 (Annexure 12 to the writ petition) is causing prejudice to the petitioner. The same authority who had earlier issued punishment dated 08.07.2000 had modified the same by issuing order dated 04.08.2000 whereby punishment is sought to be enhanced to the extent that the petitioner's pay has been reduced to the lowest pay scale of Assistant Engineer. Other punishments remain the same.

Submission made by Mr. Shahi is that order is unsustainable in law as the same has been issued without assigning any reason whatsoever. Petitioner has also not been given an opportunity prior to issuance of Annexure 12 i.e. enhancement of punishment.

State counsel opposes the claim of the petitioner. They have submitted that by virtue of activity of the petitioner i.e. his functioning as Chairman of a Cooperative Society, he had indulged in violation of Rule 16 of Bihar Government Service Conduct Rule, 1976 and therefore, modification of order of punishment, enhancing earlier order dated 08.07.2000 and giving higher punishment under order dated 04.08.2000 is fully sustainable in the eye of law.



Submissions of counsel for the State is noted only to be rejected as counsel for the petitioner has rightly submitted that order dated 04.08.2000 purporting to modify enhanced punishment is without any reason whatsoever. The order suffers from the vice of non- application of mind and also non-assigning reason. Requirement of assigning reason before issuance of such order is of utmost importance. Reasons should be assigned in support of punishment to minimize the scope of arbitrariness and allow scrutiny of decision having regard to the reasons which weighed in the mind of the authority before enhancing punishment.

Importance of assigning reason has been reiterated time and again by Courts. The Apex Court in the case of Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others reported in (2010) 9 Supreme Court Case page 496 has laid down various circumstances wherein importance of assigning reason has been emphasized so as to minimize arbitrariness and ensure fairness in the decision. In the opinion of this Court order dated 04.08.2000 is in violation of law laid down by the Apex Court in the case of Kranti Associates Private Limited (supra).

For the reasons recorded hereinabove, this Court would therefore, quash the order dated 04.08.2000 enhancing punishment issued by Deputy Secretary to the Government of



Bihar, Water Resources Department. As a result of quashing of the said order and since petitioner has retired on 31.11.2006 and would be entitled to all consequential benefit.

Writ petition stands allowed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
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