

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3055 of 2017

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Kumari Ranjani, W/o Shri Vikas Kumar Srivastava, resident of Village PO-
Bharauli, Bhaya- Narendrapur, PS- Andar, District- Siwan.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Divisional Commissioner, Saran at Chapra.
3. The District Magistrate, Siwan.
4. The Enquiry Officer-cum-Additional Collector, Siwan.
5. The Circle Officer, Siwan, District- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shri Prakash Srivastava, Advocate
		Mr. Anu Priyadarshi, Advocate
For the Respondent/s	:	Mr. Sajid Salim Khan, SC-25

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 19-04-2019

1. Heard Mr. Shri Prakash Srivastava, learned counsel for the petitioner and Mr. Sajid Salim Khan, learned Standing Counsel-25, for the State.

2. The petitioner is aggrieved by the order passed by the Commissioner, Saran Division, Chapra in Service Appeal No. 318 of 2014, contained in Annexure-9 to this writ petition, whereby the order of dismissal passed earlier against her and upheld in appeal has again been upheld and affirmed, which was revisited by him in the light of the direction given by this Court in C.W.J.C. No. 15794 of 2015.



3. It appears that after departmental proceeding against the petitioner, she was dismissed from service. The appeal against the order of dismissal also was dismissed, affirming the punishment awarded to the petitioner.

4. The petitioner, thereafter, approached this Court vide C.W.J.C. No. 15794 of 2015 with a plea that perhaps the disciplinary authority as well as the appellate authority did not take into account that the punishment which was meted out because of six charges, one being violation of an order of transfer, which was occasioned because of stay having been granted against such order of transfer by the High Court.

5. The aforesaid ground of challenge was rejected by the Court, taking into account that the petitioner was transferred in the year 2011 whereas the writ petition was filed in the year 2012 and if there was any order of status quo, it could not have been construed as an order of stay of transfer. The other charges also were held to have been rightly decided and, therefore, the Court did not deem it appropriate to interfere with the findings of the disciplinary authority as also the appellate authority.



6. However, considering the fact that there was a submission on behalf of the petitioner that she had, till the time of dismissal, served the department for 10 long years with no complaint against her, the Court was persuaded to observe that in case, such a plea is made before the Commissioner, Saran Division, Chapra afresh, he would revisit the order and would consider the feasibility/desirability of converting the order of dismissal into one of voluntary retirement, which would entitle her to post-retirement benefits to some extent. However, while saying so, the Court also observed that the petitioner would not get any salary for the period that she had not worked or was under suspension and the only benefit, in case of substitution of dismissal with voluntary retirement, would be to the extent of post-retirement benefits.

7. Strengthened by the aforesaid observation of this Court, the petitioner approached the Commissioner, Saran Division, who did not agree with the submissions of the petitioner for substitution of the punishment of dismissal with voluntary retirement on the sole ground that the petitioner



earlier also had been held guilty of misconduct, which fact was concealed while addressing the High Court against the punishment order.

8. While passing the order impugned, the Commissioner, Saran Division, took note of the fact that the punishment was harsh; nonetheless, because of the conduct of the petitioner in her ten years tenure of service, it was not desirable to substitute the punishment of dismissal with any other lesser punishment.

9. This Court finds no irregularity with the order impugned.

10. Finding no merits, this petition is dismissed.

11. No costs.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	20.04.2019
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