

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10433 of 2011

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RATAN KUMAR PRASAD S/O-Late Ram Pyare Ram Resident Of Mohalla
Khilanganj,P.O-Sasaram,Dist.-Rohtas

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR and ORS
2. The Secretary Registration,Excise Dept. ,Govt. Of Bihar,Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Tej Bahadur Singh
Mr.Brisketu Sharan Pandey
For the Respondent/s : Mr.H.S. Roy, AC to AG

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 15-07-2019

Heard learned senior counsel for the petitioner and
learned counsel for the respondents-State.

Writ petition has been filed challenging order dated
16.12.2010 whereby petitioner has been visited with punishment
of compulsory retirement. The order of the Appellate authority
dated 31.03.2011 rejecting petitioner's appeal is also assailed in the
instant proceedings.

Petitioner while working as upper division clerk in the
office of Sub Registrar, Bhabua at Kaimur was arrested on
allegation of accepting bribe of Rs. 10,000/-. The same gave rise to
Vigilance P.S. Case no. 67/2007. Charge memo thereafter was
served on the petitioner in respect of same allegation of accepting
bribe. Petitioner was subjected to a proceeding. Enquiry Officer



submitted his enquiry report on 08.06.2008 (Annexure 7 to the writ petition). Enquiry report reveals that no evidence whatsoever was presented before the Enquiry Officer. No evidence oral or documentary whatsoever was produced before the Enquiry Officer. Opinion has however, been sought from the Presenting Officer. Based upon his inter-action with other employees of the office of Sub Registrar where petitioner was posted, Presenting officer has submitted his opinion that certain persons in the office supported the fact that amount of cash which is said to be a bribe accepted by the petitioner, in fact, was forcibly planted in the petitioner's pocket.

Enquiry Officer has returned a report to the extent that final decision in respect of charge could be taken only after conclusion of the trial.

Disciplinary authority has thereafter issued letter dated 04.08.2010 purported to have been issued under rule 18(3) of Bihar CCA Rules, 2005. Contents of letter, however, suggests otherwise. Letter prima facie has been issued under rule 18(2) of Bihar CCA Rules, 2005 as Disciplinary Authority under rule 18(3) of Bihar CCA Rules, 2005 is empowered to forward copy of enquiry report together with his own finding as contemplated under rule 18(2) of Bihar CCA Rules, 2005.



Bare perusal of communication dated 04.08.2010 would show that same does not record any point of disagreement with conclusion of the Enquiry officer on any article of the charge. No reason for disagreement based on any evidence on record is indicated under letter dated 04.08.2010 issued by the Disciplinary authority. The same is therefore, contrary to rule 18(2) (3) of Bihar CCA Rules, 2005. Procedure adopted by the authorities is, therefore, violative of rule 17(14) as well as 18(2) (3) of Bihar CCA Rules, 2005. Records reveal that there was no evidence before the Enquiry officer documentary or oral in support of the charge. There was no conclusion/ finding of the Enquiry officer holding the charge proved. Communication of Disciplinary authority dated 04.08.2010 is in violation of principle of natural justice and Bihar CCA Rules, 2005.

In view of procedural lapses, punishment order dated 16.12.2010 is grossly unsustainable in law and the same is hereby quashed. The order of the Appellate authority dated 31.03.2011 merely affirms the illegal order dated 16.12.2010 imposing punishment of compulsory retirement of the petitioner, the same must also collapse, and is quashed.



As a result of quashing of the impugned orders petitioner is entitled to all consequential benefit.

Writ petition stands allowed.

Having regard to nature of the allegation, State counsel submits that State should be granted liberty to proceed against the petitioner in accordance with law.

Authority is always at liberty to proceed, but only so far as the law permits.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
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