

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21421 of 2014

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Ramdeo Yadav S/o Late Darogi Yadav Resident of Ganjpar, Rajgir, P.S.
Rajgir, District Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Bihar, Patna.
2. The Joint Secretary to Govt. of Bihar, General Administration Department.
3. The Commissioner, Patna Division, Patna.
4. The District Magistrate, Nalanda.
5. The District Account Officer, Nalanda, Collectorate, Bihar Sharif.
6. The Senior in Charge Officer, District Establishment Section, Nalanda at Bihar Sharif.
7. The Additional Collector cum Conducting Officer, Nalanda at Bihar Sharif.
8. The Deputy Collector (Est.) Nalanda Collectorate, Bihar Sharif.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Lalan Kumar Singh, Advocate Mr. Sanjay Pd., Advocate
For the Respondent/s	:	Mr. Pushkar Narain Shahi, Sr. Advocate Mr. Ravindra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

3 27-02-2020 Heard learned counsel for the parties.

2. The petitioner was working as Peon in the office of the District Accounts Officer, Nalanda at Bihar Sharif when he was arrested in a trap led by the Vigilance Investigation Bureau of the State Government. Along with him the Assistant in the said office, namely, Anirudh Chaudhary was also arrested. They were charged of having accepted bribe of Rs.2,500/- from the complainant in lieu of fixation of his pay scale and grant of



ACP. That led to institution of a criminal case registered as Vigilance P.S. Case No. 14 of 2007 dated 2.7.2007 for the offence punishable under Sections 7, 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. The said criminal case is pending.

3. In the meanwhile, a disciplinary proceeding was initiated against the petitioner with the same allegation which was the basis for lodging of the First Information Report. The charge memo was served and Inquiry Officer was appointed. It is not mentioned in the writ application that the charge memo was not served on him. It is his case, however, that the list of documents and list of witnesses, on which the Department intended to rely in support of the charge, were not supplied. The Inquiry Officer submitted his report to the effect that on the basis of the evidence adduced during the course of the Departmental Enquiry, the petitioner could not be held guilty of having accepted any gratification, particularly in view of the fact that the criminal case was still pending. However, keeping in mind, the allegation that a sum of Rs.2,500/- was recovered by the Vigilance officials, the petitioner's defence that he had not accepted any money as gratification, could not be accepted.

4. With these reasons, the Inquiring Authority held



charge to have been proved. The Disciplinary Authority agreed with the report of the Inquiring Authority and by an order dated 28.03.2014, imposed upon the petitioner, punishment of dismissal, from service.

5. The petitioner had earlier approached this Court by filing a writ application giving rise to CWJC No. 21421 of 2014 which was disposed of by order dated 07.09.2018 in terms of an order of this Court passed in CWJC No. 1714 of 2015 (Balmukund Prasad Vs. The State of Bihar & Ors.) dated 02.07.2018. Since, while disposing of CWJC No. 21421 of 2014, this Court did not specifically quash the impugned order of dismissal, the District Magistrate, Nalanda, refused to accept the petitioner's joining. That led to filing of a Review application by the petitioner giving rise to Civil Review No. 83 of 2018, which came to be disposed of by an order dated 10.07.2019 which reads as under:-

“Heard learned counsel for the petitioner and learned counsel for the State.

This Review Application has been filed for reviewing the order dated 07.09.2018 passed in C.W.J.C. No.21421 of 2014.

The order passed in C.W.J.C. No. 21421 of 2014 is as follows:-

“Heard learned counsel for the petitioner and learned counsel for the State. Learned counsel



for the petitioner submits that the fact of the present case is identical to the case of C.W.J.C. No. 1714 of 2015 (Balmukund Prasad Vs. The State of Bihar & Ors.), the aforesaid order squarely covers the issue involved in the present case. In such view of the matter, the concerned authority is directed to examine the case of petitioner and if it is found that present case is squarely covered by the aforesaid case, the same benefit should also be extended to the petitioner. With the aforesaid observations and directions, this writ petition is disposed of.”

Learned counsel for the petitioner submits that though the case of the petitioner is identical to the case of Balmukund Prasad (petitioner of C.W.J.C. No.1714 of 2016), but no effective relief has been granted to this petitioner and as such the State is not ready to give the relief to the petitioner. This Court feels that there is no error in the order, but only the writ petition has been disposed of in the terms of the aforesaid case i.e. C.W.J.C. No. 1714 of 2015, hence relief which the petitioner is seeking in this review application cannot be granted. However, for the ends of justice, the order dated 07.09.2018 passed in C.W.J.C. No. 21421 of 2014 is withdrawn and the main case i.e. C.W.J.C. No. 21421 of 2014 is restored and it will be heard accordingly.

Accordingly, this Review Application is disposed of.”

6. It is in the background of the aforesaid order dated 10.07.2019 that this matter has been listed.



7. I have carefully perused the report of the Inquiry Officer which has been brought on record by way of Annexure-4 to the writ application. It does not appear from the report of the Inquiry Officer that any oral evidence was adduced before the Inquiry Officer and only three documents were produced before him so as to prove the charges against the petitioner, namely;

- (i) the First Information Report of Vigilance P.S. Case No. 14/2017,
- (ii) the complaint filed by the complainant, and
- (iii) pre-trap memorandum.

8. Neither the complainant was examined as a witness for the Department nor any one present at the time and place of occurrence when the petitioner was arrested allegedly while accepting gratification, was produced before the Inquiry Officer in support of the charge.

9. Learned counsel appearing on behalf of the petitioner has argued that the findings recorded by the Inquiry Officer as well as by the Disciplinary Authority are perverse and without any evidence and, therefore, the impugned decision of the disciplinary authority requires interference. Reliance has been placed, in support of the said contention, on Supreme



Court's decision in case of ***Roop Singh Negi Vs. Punjab National Bank and Others*** reported in ***(2009) 2 SCC 570***. It has also been argued that there has been breach of mandatory statutory provisions under Rule 17 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, inasmuch as, list of witnesses and the list of documents on which the prosecution had intended to rely to prove the charge, were not supplied to him.

10. My Attention has been drawn in this regard to the impugned order passed by the disciplinary authority which has briefly dealt with the explanation of the petitioner. It has been argued that the disciplinary authority has though, specifically taken note of the petitioner's plea that no documents were made available to him in support of the charge, the same has not at all been dealt with by the disciplinary authority.

11. On perusal of the impugned order, I find substance in the submission made on behalf of the petitioner. There is no material in the counter affidavit filed on behalf of the Respondents State of Bihar to suggest that any evidence was adduced during the course of departmental enquiry before the Inquiry Officer by the Department.

12. Considering the facts and circumstances of the



case, the impugned order requires interference. Accordingly, the impugned order dated 28.03.2014 issued vide Memo No. 6-27/11-479 passed by the District Magistrate, Nalanda, in departmental proceeding No. 03/10-11 is hereby set aside. The consequences of setting aside of the impugned order shall follow. The petitioner shall be required to be reinstated forthwith.

13. This writ application is allowed.

14. The order of the appellate authority also stands set aside as the order of the disciplinary authority has been quashed on the ground that the findings recorded therein are perverse.

(Chakradhari Sharan Singh, J)

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