

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6726 of 2020

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Dharm Nath Baitha Son of Sukhlal Baitha, Resident of Village- Mazlishpur,
P.S. Garkha, District- Saran, Presently Posted as Circle Officer, Phoolparas,
P.S. Phoolparas, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of Revenue and Land Reforms Department, Government of Bihar, Patna.
2. The Additional Secretary of Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Special Secretary to the Government , Department of Revenue and Land Reforms, Government of Bihar, Patna.
4. The District Magistrate, Siwan.
5. The Additional Collector-Cum-Conducting Officer, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siddharth Harsh
For the Respondent/s : Mr.Sajid Salim Khan (Sc25)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 03-12-2021

Heard the learned counsels for the parties.

2. In the present petition, petitioner has prayed for
following reliefs:

“I. That this is an application
for issuance of appropriate writ(s),
order(s), direction(s), for quashing of the
Sankalp issued by the Additional
Secretary of the Revenue and Land
Reforms Department, Government of
Bihar, Patna, vide its Memo No. 745
dated 18.11.2019 (Annexure-12),
whereby and where-under a punishment
for withholding of two increments with
cumulative effect has been inflicted.

And for stay of the operation of



the Sankalp issued vide Memo No. 745 dated 18.11.2019 passed and issued by the Respondent No. 3 (nnexure-12) during pendency of the writ application.

And/or pass such any other order/orders which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. Disciplinary proceeding were initiated against the petitioner. It was concluded in imposition of penalty of withholding of two increments with a cumulative effect, which is one of the major penalty inflicted on 18.11.19 (Annexure-12).

4. Learned counsel for the petitioner submitted that there are number of lacunas in holding the disciplinary proceedings. He has specifically pointed out that there is non-compliance of Sub-rule 3 and 4 Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (For short 'Rules, 2005').

5. Perusal of the counter statement, it is evident that the aforesaid contention has not been dealt by the author of the counter statement and it is not disputed by the learned State Counsel.

6. In the light of these facts and circumstances, the petitioner has made out a *prima facie* case so as to interfere with the impugned order dated 18.11.2019 and the same is set aside.



7. The matter is remanded to the disciplinary authority to commence the enquiry afresh from the defective stage and complete the enquiry proceedings within a period of six months from the date of receipt of copy of this order.

8. Copy of the order shall be communicated to the Chief Secretary, State of Bihar, since in almost every case there is violation of Sub-rule 3 and 4 of Rule 17 of Rules, 2005. Necessary action shall be taken against the officer who has violated the aforesaid rules after holding disciplinary proceedings against such officer in not exercising *quasi-judicial* functions in terms of Rules, 2005.

9. If the impugned penalty order is not given effect as on today in view of quashing, the petitioner is entitled to monetary benefits. the same shall be calculated and disbursed to the petitioner within a period of two weeks from today.

10. Accordingly, the instant petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.12.2021
Transmission Date	

