

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9379 of 2021

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Vikash Shiromani S/o Late Kj. Narendranath Vaidya, R/o Flat No. 104,
Kailash Palace, Jagriti Nagar, Near Ashiana Nursing Home, Magistrate
Colony, P.S. - Rajivnagar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Joint Secretary to the Govt., Health Department, Govt. of Bihar, Patna.
4. The Drug Controller, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajeev Kumar Singh
For the Respondent/s : Mr. Ramadhar Singh (GP-25)
Mr. Harendra Kumar, AC to GP-25

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 02-11-2021 Heard learned counsel for the parties.

2. This writ petition has been filed seeking quashing of a notification issued *vide* memo No. 515 dated 26.03.2021, under the signature of the Joint Secretary to the Government, Department of Health, Government of Bihar, whereby punishment of dismissal from service has been imposed upon the petitioner.

3. The petitioner, at the relevant point of time, was posted as Drug Inspector, Muzaffarpur Zone.

4. A disciplinary proceeding was initiated against him with the issuance of charge memo. The Inquiring authority



submitted his report on 14.02.2020. A copy of the report of the Inquiring authority was supplied to the petitioner, seeking his comments.

5. It is the specific case of the petitioner that full enquiry report was not supplied to him by the disciplinary authority for the petitioner to make his representation against such report. It is the petitioner's specific case that page no.6 of the enquiry report was missing from the report, which was supplied to him and, therefore, it was impossible for him to make an effective representation.

6. As the respondents miserably failed to take any clear stand on this point, the Court was constrained to summon the original records of the disciplinary proceeding, which was initiated against the petitioner. The Drug Controller, State of Bihar has produced the original records in the light of the order passed by this Court on 28.10.2021. The original records have been perused by me. The original records also do not contain page No.6 of the enquiry report. Apparently, full enquiry report was not supplied to the petitioner, which is a mandatory requirement under Rule 18(3) of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 as also the principles of natural justice. For the sole reason of non-supply



of the full enquiry report to the petitioner, in the Court's opinion, the impugned order dated 26.03.2021 stands vitiated and requires interference. It is suggestive of the fact that the disciplinary authority, before supplying to the petitioner the enquiry report did not take due care to ensure that the full enquiry report is supplied to him. This shows non-application of mind also inasmuch as it is the duty of the disciplinary authority to consider the findings recorded by the Inquiring authority before supplying the same to a delinquent Government servant and record send the same, together with his own findings, to the government servant.

7. Considering the above, the impugned order of dismissal dated 26.03.2021, is set aside. The petitioner is directed to be reinstated in service forthwith. The disciplinary authority shall be at liberty to supply to the petitioner complete copy of the enquiry report whereafter the respondents shall proceed, in accordance with law, for conclusion of the disciplinary proceeding, from the stage of supply of enquiry report.

8. It will be open for the disciplinary authority to ensure reconstruction of the enquiry report, if required, after consulting the Inquiring authority for supply of the inquiry



report to the petitioner.

9. The petitioner's claim for back-wages will depend on the outcome of the disciplinary proceeding.

10. Let the original records produced by the Drug Controller be returned back to him.

11. This application is allowed with aforesaid direction and observation.

(Chakradhari Sharan Singh, J)

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