

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7528 of 2020

Dr. Narendra Prasad Singh Son of Late Mahendra Prasad Singh Resident of Road No. 2, Shiv Puri, Patna, Police Station- Shastri Nagar in the district of 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, Government of Bihar, Patna.
3. The Additional Secretary Health Department, Government of Bihar, Patna.
4. The District Magistrate-cum- Collector Nalanda.
5. The Under Secretary Health Department, Government of Bihar, Patna.
6. The Civil Surgeon- cum- Chief Medical Officer Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sunil Kumar, Adv. Mr. Pankaj Kumar, Adv.
For the State	:	Mr. Ajay Bihari Sinha, GA-8 Mr. Neeraj Raj, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 12-03-2021

The present writ petition has been filed for quashing the order of punishment dated 31.10.2016 issued under the signature of the Under Secretary, Health Department, Government of Bihar, Patna whereby and whereunder the petitioner has been inflicted with the punishment of withholding of one increment without



cumulative effect as also withholding of salary for the period of absence i.e. for the period 01.05.2012 to 19.08.2014.

2. The brief facts of the case are that a departmental proceeding was initiated vide letter dated 08.02.2013 issued by the Under Secretary, Health Department, Government of Bihar, Patna, at the time, the petitioner was posted as Medical Officer in the Modified leprosy control unit, Nalanda at Biharsharif on the allegation that he has been unauthorizedly absent and has also not joined his duties, after his leave applications had been rejected. The petitioner had then filed a detailed reply, whereupon the respondent authorities vide letter dated 29.10.2013 had decided to initiate a departmental proceeding and had also appointed an Inquiry Officer while enclosing the charge-sheet. The Inquiry Officer is stated to have conducted the inquiry proceedings and had submitted an inquiry report dated 27.01.2014 whereby and whereunder the petitioner was exonerated of the charges levelled against him. The disciplinary authority had



then vide letter dated 28.01.2016 issued a second show cause notice to the petitioner not only differing with the opinion of the Inquiry Officer, but also spelling out the reasons for differing with the report of the Inquiry Officer. The petitioner had then submitted his detailed reply vide his letter dated 09.03.2016 to the aforesaid second show cause notice dated 28.01.2016, however, the disciplinary authority had passed the impugned order dated 31.10.2016, inflicting the aforesaid punishments upon the petitioner herein.

3. The learned counsel for the petitioner has submitted that the petitioner had, all of a sudden, become ill on 14.06.2012, whereafter he was treated at Sadar Hospital Nalanda at Biharsharif, however, the petitioner was referred for advance treatment at Indira Gandhi Institute of Cardiology, PMCH, Patna, whereupon he had submitted application on 14.06.2012, for grant of casual leave from 15.06.2012 to 16.06.2012, before the Respondent No. 6 for enabling him to undergo advance treatment at Patna. It is the case of the



petitioner that he was treated at IGIC, Patna on 15.06.2012 and the petitioner was found suffering from cardiac problem, hence, he was advised complete bed-rest. The petitioner had then filed several applications for extension of his leave before the Respondent No. 6. In fact, the petitioner is stated to have also suffered from Jaundice, hence, he had submitted his application for extension of his leave upto 21.08.2014. The learned counsel for the petitioner has further submitted that a short legal issue is being raised for the purposes of assailing the impugned punishment order dated 31.10.2016 to the effect that the impugned order dated 31.10.2016 is absolutely unreasoned and does not depict either consideration of the replies submitted by the petitioner to the second show cause notice dated 28.01.2016 or any application of mind by the disciplinary authority, hence, the same is fit to be quashed on this sole ground alone.

4. The learned counsel for the Respondent-State has referred to the counter affidavit and has



submitted that there has been no irregularities in conduct of the departmental proceeding, hence, the order of punishment dated 31.10.2016 does not require any interference inasmuch as this Court would not sit in appeal over the decision of the disciplinary authority. It is also submitted that the petitioner was directed to mark his attendance through biometrics system, however, the petitioner remained absent unauthorizedly from duty as was detected by the Civil Surgeon, Nalanda on 01.05.2012. Despite opportunity being granted by the respondent authorities, the petitioner had failed to join his duties, hence, a disciplinary proceeding was initiated against the petitioner and after due inquiry and considering the reply of the petitioner, the impugned order of punishment dated 31.10.2016 has been passed.

5. I have heard the learned counsel for the parties and gone through the materials available on record. A bare perusal of the impugned order of punishment dated 31.10.2016 would show that the same is wholly unreasoned and does not deal with



the reply of the petitioner and moreover, no cogent, clear and succinct reasons have been furnished in support of the impugned order dated 31.10.2016, which is an indispensable component of a decision making process, hence, the impugned order dated 31.10.2016 stands vitiated, thus, this Court has no option but to set aside the impugned order dated 31.10.2016 passed by the Under Secretary, Health Department, Government of Bihar, Patna especially, in view of the said issue being squarely covered by the principles of law laid down by the Hon'ble Apex Court in the case of ***ORYX Fisheries Pvt. Ltd. vs. Union of India***, reported in ***(2010) 13 SCC 427***.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the writ petition stands allowed and the impugned order dated 31.10.2016 passed by the Under Secretary, Health Department, Government of Bihar, Patna stands quashed, however, with liberty to the disciplinary authority to proceed, afresh in the matter in accordance with



law from the stage of issuance of second show
cause notice.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.03.2021
Transmission Date	NA

