

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2185 of 2017

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Ram Nandan Pandit, S/o Sri Bhola Pandit, Resident of Village- Jamunapur,
P.S.- Bihta, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Old Secretariat, Bihar, Patna
2. The Principal Secretary, Home Department, Govt. of Bihar, Old Secretariat, Bihar, Patna
3. The Inspector General, Prisons, Old Secretariat, Bihar, Patna.
4. The Dy. Inspector General of Police

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Mishra, Advocate
For the Respondent/s : Mr. Prabhat Kumar Verma-AAG-3

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 22-06-2021

Heard Mr. Awadhesh Kumar Mishra, learned counsel
for the petitioner and the respondents.

2. Mr. Awadhesh Kumar Mishra, learned counsel for the petitioner submits that the impugned order of dismissal of the petitioner is not a speaking order and even the appellate order is only empty formality, as would be evident from Annexure-11. He refers to Annexure-2 to submit that the charges are vague and the entire departmental proceeding was only empty formality. It was incumbent upon the respondents to bring home the charges but the respondents have not been able to establish the charges in the departmental proceeding against the petitioner. He further



submits that no witness was examined, no document was proved in the departmental proceeding to establish the charges against the petitioner. He submits that the finding of the enquiry officer is perverse and based on such perverse order of punishment was passed, as contained in Annexure-6, as well as appellate order is also unsustainable in the eyes of law. He submits that this Court has occasion to consider the identical issue while deciding Annexures- 9 and 11.

3. The departmental proceeding is not an empty formality, as has been held out by the Constitution Bench of the Apex Court in the case of **Union of India Vs. H.C. Goel**, reported in **A.I.R. 1964 SC 364**. Para 27 of the judgment is quoted herein below for ready reference:

“27. Now, in this state of the evidence, how can it be said that respondent even attempted to offer a bribe to Mr. Raja- gopalan. Mr. Rajagopalan makes a definite statement that respondent did not offer him a bribe. He merely refers to the fact that respondent took out a paper from his wallet and the said paper appeared to him like a hundred rupee note duple folded. Undoubtedly, Mr. Rajagopalan suspected the respondent's conduct, and so, made a report immediately. But the suspicion entertained by Mr. Rajagopalan cannot, in law, be treated as evidence against the respondent even though there is no doubt that Mr. Rajagopalan is a straightforward and an honest officer. Though we fully appreciate the anxiety of



the appellant to root out corruption from public service, we cannot ignore the fact that in carrying out the said purpose, mere suspicion should not be allowed to take the place of proof even in domestic enquiries. It may be that the technical rules which govern criminal trials in courts may not necessarily apply to disciplinary proceedings, but nevertheless, the principle that in punishing the guilty scrupulous care must be taken to see that the innocent are not punished, applies as much to regular criminal trials as to disciplinary enquiries held under the statutory rules. We have very carefully considered the evidence led in the present enquiry and borne in mind the plea made by the learned Attorney General, but we are unable to hold that on the record, there is any evidence which can sustain the finding of the appellant that charge No. 3 has been proved against the respondent. It is in this connection and only incidentally that it may be relevant to add that the U.P.S.C. considered the matter twice and came to the firm decision that the main charge against the respondent had not been established.”

4. Though the standard of proof in departmental proceeding is preponderance of probability and not required to be proved beyond all reasonable doubts like a criminal case but case like criminal trial is to be followed in the departmental proceeding as would be evident from the discussion made in the case of **H.C. Goel** case (supra).

5. Since, similar issue was considered by this Court vide Annexures-9 and 11, in order to maintain consistency, the



present writ petition is allowed and disposed of in terms of Annexures-9 and 11. The order as contained in Annexure-6 as well as appellate order are hereby quashed. The matter is remitted back to the disciplinary authority to take fresh decision in accordance with law, particularly, in view of the judgment of the Apex Court in the case of **Managing Director ECIL Hyderabad Vs. B. Karunakar**, reported in **(1993) 4 SCC 727**.

6. Accordingly, the writ petition is allowed in terms of Annexures-9 and 11, the order passed by a Co-ordinate Bench of this Court. The respondents are directed to take fresh decision after opportunity of hearing to the petitioner in accordance with law.

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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