

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12693 of 2019

=====

Vijay Kumar, Son of Late Ramnandan Das, Village- Jalgovind Chowk, P.S.-
Barh, District - Patna, 803213.

... .. Petitioner/s

Versus

1. The Honble High court of Judicature, at Patna. Patna.
2. District and Sessions Judge, Patna.
3. Additional Sessions Judge, Barh cum Enquiry Officer

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Ms. Surya Nilambari, Advocate
For the Respondent/s : Mr. Piyush Lall, Advocate

=====

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

Date : 17-11-2021

Heard learned counsel for the parties.

In the instant petition, the petitioner has prayed for the
following reliefs:-

“(i) Directing the Respondent Authority to produce the order whereby the memo of appeal filed by the petitioner against the order of dismissal dated 12.05.2014, came to be rejected and of which order only a communication dated 14.03.2019, issued under the signature of the Registrar (Admin) addressed to the learned District and Sessions Judge, Patna, was forwarded to the petitioner.

(ii) Upon production of the said order passed in the appeal preferred by the Petitioner, against the order dated 12.05.2014 whereby the Petitioner was dismissed from service by the learned District and Sessions Judge, Patna, to quash the same;

(iii) To quash the order dated 12.05.2014 passed by the District and Sessions Judge, Patna whereby the Petitioner was dismissed from service for proved misconduct;



(iv) To quash the second show cause notice dated 11.12.2013 as being bad in law;

(v) That the petitioner may be reinstated in service with consequential benefits and that the Petitioner may be paid subsistence allowance for the period between April, 2009 till 12.05.2014 (date of dismissal).”

The petitioner entered into service of the Subordinate Court as a Class-IV employee on 02.07.1987. He was placed under suspension on the allegations that when he was on duty a sum of Rs. 1,33,304/- was stolen from Nazarat Office, Civil Court, Barh. Barh P.S. Case No. 542 of 1993 was registered and simultaneously departmental proceeding was initiated by District & Sessions Judge, Patna against one Sri Indu Bhushan Pandey, the then Nazir and petitioner-Vijay Kumar, the then Night Guard posted in Barh Civil Court. The petitioner was convicted in the criminal proceedings and it was subject matter of Cr. Rev. No. 11 of 2013 in which he was acquitted on 29.07.2013 whereas in the departmental proceedings the Inquiring Officer has submitted a report on 15.07.1995 in which it is held that charges levelled against the petitioner was proved.

In the light of the aforesaid factual aspect the disciplinary authority by its order No. 62 of 2014 dismissed the petitioner from service on 12.05.2014. Petitioner filed CWJC No. 12367 of 2014 against the order of dismissal and it was disposed



off as petitioner had alternative remedy of appeal, thus, he preferred memorandum of appeal. Appeal was stated to have been decided by the Hon'ble Committee, High Court of Patna and it was rejected. The same was communicated to the petitioner on 14.03.2019, however, copy of the Committee's decision in rejecting the memorandum of appeal was not furnished or forwarded to the petitioner along with impugned communication dated 14.03.2019, thus, the petitioner has presented this petition.

The petitioner was dismissed from service and preferred appeal before the appellate authority. It is learnt that appellate authority is consisting of a committee and committee has rejected the petitioner's memorandum of appeal dated 12.12.2016 and such rejection or appeal was communicated to the petitioner on 14.03.2019 by the Registrar (Admn.). Decision of the Committee on merit in deciding the memorandum of appeal has not been communicated to the petitioner. In fact, the petitioner first prayer reads as under:-

“(i) Directing the Respondent Authority to produce the order whereby the memo of appeal filed by the petitioner against the order of dismissal dated 12.05.2014, came to be rejected and of which order only a communication dated 14.03.2019, issued under the signature of the Registrar (Admin) addressed to the learned District and Sessions Judge, Patna, was forwarded to the petitioner.”



In the light of these facts and circumstances and the fact that respondent counsel has not disputed that the petitioner has not been provided decision of the Committee and only communication dated 14.03.2019 has been served in which it is intimated that the petitioner’s appeal was rejected.

In order to make effective petition, the contents of appellate authority decision on the memorandum of appeal is required to be furnished thereby the petitioner has been denied opportunity or meeting the grounds for rejection of appeal in this petition, on this short ground, Annexure-8 dated 14.03.2019 is set aside and writ petition is allowed.

The concerned respondent is hereby directed to communicate the decision on the memorandum of appeal dated 12.12.2016 viz. the Appellate authority (committee) decision to the petitioner within a period of four weeks from the date of receipt of this order. Thereafter, the petitioner is at liberty to question the validity of the disciplinary/appellate authority order/decision.

With the aforesaid observations, the present petition stands allowed.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	22.11.2021
Transmission Date	N/A

