

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 2875 of 2020**

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Rajendra Prasad Pandey, aged about 68 years (Male) Son of Late Ram Eqbal Pandey, Resident of Mohalla Kautilya Nagar, Behind Tara Town PO and PS Shastri Nagar District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Commercial Tax Commissioner Cum Principal Secretary, Commercial Taxes, Govt. of Bihar, Patna.
2. The Joint Commissioner (Administration), Department of Commercial Taxes, Government of Bihar, Patna.
3. The Deputy Secretary, Departmental of Commercial Taxes, Government of Bihar, Patna.
4. The Under Secretary, Department of Finance (Commercial Taxes), Government of Bihar, Patna.
5. The District Magistrate, Bhagalpur.
6. The Accountant General (A and E)- II, Beerchand Patel Path Patna.

... .. Respondent/s

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**Appearance :**

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| For the Petitioner/s | : | Mr. Mithlesh Kumar, Advocate  |
| For the State        | : | AC to SC 11                   |
| For the AG           | : | Mr. Arun Kumar Arun, Advocate |

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN**  
**AMANULLAH**

**ORAL JUDGMENT**

**Date : 18-02-2021**

Heard Mr. Mithlesh Kumar, learned counsel for the petitioner, learned AC to SC 11 for the State and Mr. Arun Kumar Arun, learned counsel for the Accountant General.

2. The petitioner has moved the Court for the following reliefs:

*“That this is an application for issuance of an appropriate writ/writs, order(s) or direction(s) for quashing of the order dated 25.07.2019 issued vide Memo no. 2133 under the signature of Respondent no. 3 by which the earlier*



*order dated 24.03.2015 issued vide Memo no. 1331 has been remain unchanged by reducing 5% pension of the petitioner on the basis of partly proved charges of Sexual harassment and immoral conduct at the work place and also to quash the order dated 31.10.2019 issued vide Memo no. 3214 by the respondent no. 3 has withheld the part of the remaining salary between the period 07.10.2013 to 27.02.2014 and further to direct the respondent to make the payments of rest of the retiral dues arising out of the impugned orders.”*

3. At the outset, the Court would record that though the copy of the writ petition was served on learned counsel for the State on 11.12.2019, but till date, there is no counter affidavit.

4. Learned counsel for the State submitted that the affidavit is prepared but not filed. The Court is at a loss to understand as to how affidavits are prepared and kept in the file of learned counsel without being brought on record. As the lock down due to COVID-19 pandemic came into effect only in the end of March, 2020, and the Court has been informed that the affidavit was prepared prior to that, it was required to be filed or, at least, it ought to have been filed through the *e*-mode as is being done.

5. Such conduct of the respondent authorities in not bringing on record what they have to say, definitely is an impediment in judicial proceeding as the Court is not in a position to consider what stand they had taken and how they had justified the order impugned.



6. Learned counsel for the petitioner submitted that the punishment imposed is disproportionate to the charge as there was only one charge and the Enquiry Officer has given a finding that it was partially proved. Learned counsel submitted that the petitioner was to superannuate in 2014 and at the fag end of his career, in the year 2013, such allegation has been made.

7. Learned counsel for the petitioner has taken the Court through the order impugned. From a plain reading of the same, it is clear that the Enquiry Officer has found that the petitioner used to sexually abuse the complainant and in lieu thereof, he did not make any complaint before the authorities, as was required of him and saved the guilty and, thus, for that charge, he has been visited with the penalty of withholding of 5% of his pension.

8. Learned counsel for the State submitted that the allegation is with regard to moral turpitude which is amply proved as even the enquiry report notes that it is clear that the petitioner did sexually abuse the concerned employee.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and the enquiry report and the reasoning assigned therein as well as the order of the Disciplinary Authority, the Court finds that the punishment imposed cannot be termed as either disproportionate



or excessive. In fact, the Court is tempted to observe that the authorities have in fact taken a lenient view in the matter.

10. For reasons aforesaid, the Court finds no occasion to interfere in the matter.

11. Accordingly, the application stands dismissed.

**(Ahsanuddin Amanullah, J.)**

P. Kumar

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