

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23512 of 2018

Sanjay Kumar Singh S/o Late Mahendra Narayan Singh Resident of Village
and P.O.-Arraha,P.S. Ghailarh,Distt.-Madhepura

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary,Revenue and Land Reforms Department,Bihar,Patna
3. The Divisional Commissioner, Koshi Division-Saharsa
4. The District Magistrate-cum-Collector, Madhepura
5. The Circle Officer,Alamnagar,Madhepura

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Sr. Advocate Mr. Ram Nibash Pd., Advocate
For the Respondent/s	:	Mr. Nutan Sahay, AC to AAG-12

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

Date : 30-11-2021

State counsel has filed supplementary counter affidavit. The same is taken on record.

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

“(a) For issuance of an appropriate writ quashing the order of punishment of dismissal from service issued by the District Magistrate- cum-Collector, Madhepura (Respondent no. 4) vide Memo No. 25-2/Stha. dated 08-01-2016 (Annexure-(8).

(b) For issuance of an appropriate writ quashing the appellate order dated 06-10-2018 passed by the Divisional Commissioner, Koshi Division, Saharsa (Respondent No. 3) whereby and where under the Service Appeal Petition



No. 43/2016 of the petitioner has been rejected by unreasoned and nonspeaking order.

(c) For appropriate writ commanding the Respondent No. 4 to reinstate the petitioner in service with all consequential benefits.

(d) Further, for any relief/reliefs as your Lordship may deem fit and proper in the facts and circumstances of the case.”

3. The petitioner is stated to have demanded and accepted illegal gratification of a sum of Rs. 20,000/- while discharging duties on the post of Revenue Clerk. He was subjected to parallel proceedings. Criminal proceeding is still pending consideration before the jurisdiction forum. In so far as departmental enquiry is concerned, it was concluded in imposition of penalty as dismissal from service on 08.01.2016.

4. Feeling aggrieved and dissatisfied by the order of the disciplinary authority, petitioner preferred an appeal before the appellate authority and it was rejected on 06.10.2018. Thus, he has presented the instant petition.

5. Learned senior counsel for the petitioner vehemently contended that in the initiation of enquiry itself there is violation of Sub-rule 3 and 4 of Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short “Rules, 2005). Further presenting officer has not



played his role in the enquiry proceedings. On this counts, matter requires to be interfered with the penalty orders.

6. Per contra, learned counsel for the State, on instruction, submitted that the disciplinary authority has not complied the initiation of enquiry in respect of Sub-rule 3 and 4 of Rule 17 of Rules, 2005.

7. In the light of these facts and circumstances, the impugned orders dated 08.01.2016 and 06.10.2018 (Annexure-8 and 11 respectively) are set aside.

8. The disciplinary authority is hereby directed to initiate a fresh enquiry in compliance of Rule 17 of Rules, 2005.

9. The petitioner shall be paid all monetary benefits during the intervening period from 08.01.2016 to this date. The same shall be calculated and disbursed to the petitioner at the interest of justice. Petitioner shall be taken back to duty at the earliest, subject to outcome of disciplinary proceedings to be initiated.

10. Accordingly, the instant petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	07.12.2021
Transmission Date	

