

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2101 of 2022

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Gulab Chandra Singh Son of Shri Rajendra Prasad Singh, resident of Village -
Mawaia, P.O. Kheria, P.S. Korha, District - Katihar.

... .. Petitioner/s

Versus

1. The Government of India through the Director, Subsidiary Director of Intelligence Bureau, Ministry of Home Affairs, Government of India, New Delhi.
2. The Joint Director, Subsidiary Director of Intelligence Bureau, Ministry of Home Affairs, Government of India, 6 Serpentine Road, Patna - 800001.
3. The Joint Deputy Director/E, Subsidiary Director of Intelligence Bureau, Ministry of Home Affairs, Government of India, 6 Serpentine Road, Patna - 800001.
4. The Assistant Director -E, Subsidiary Director of Intelligence Bureau, Ministry of Home Affairs, Government of India, 6 Serpentine Road, Patna - 800001.
5. Mrs. Nupur Singh, A.C.I.O. Birpur Unit, B.L.B., Birpur, Koshi Colony, P.O. and P.S. Birpur, District - Supaul - 854340.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Sinha, Senior Advocate Mr. Shambhu Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Priya Ranjan, CGC Mr. Ankur, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-06-2022

In the instant petition, petitioner has assailed the order of tribunal dated 27th November, 2019 passed in O.A. No. 050/00830 of 2016 (Annexure-1).

Petitioner while working as Security Assistant in the office of the Assistant Director, Subsidiary, Intelligence



Bureau, he was subjected to a disciplinary proceeding in framing of article of charges on 13.06.2016. The petitioner submitted his explanation to the charge to the extent that denying the alleged charge on 21.06.2016, disciplinary authority decided to hold an enquiry by appointing Enquiry Officer or Presenting Officer. The Enquiry Officer after holding enquiry, submitted report on 06.07.2016. On receipt of enquiring officer's report, the disciplinary authority issued a show cause notice along with enquiring officer's report seeking petitioner's explanation. The petitioner submitted his explanation on 20th July, 2016. On receipt of petitioner's explanation on the enquiring officer's report read with second show cause notice, disciplinary authority proceeded to impose penalty of dismissal from service of petitioner on 04.08.2016.

Feeling aggrieved and dissatisfied with the order of the disciplinary authority, petitioner preferred appeal before the appellate authority and it was rejected on 26.09.2016. Thus, petitioner preferred original application before the Central Administrative Tribunal, Patna Bench, Patna vide O.A. No. 050/00830 of 2016. The O.A. No. 050/00830 of 2016 was dismissed while affirming the order of disciplinary and appellate authority on 27.11.2019. Thus, the petitioner has presented this



petition.

Learned counsel for the petitioner vehemently submitted that there is discrepancy in the findings of the enquiry proceedings. He tried to apprise this Court with reference to 4th hearing dated 25.06.2016 relating to examination of one Mrs. Nupur Singh and cross-examination. In fact, perusal of the enquiring officer's report it is evident that enquiry officer asked the petitioner as to whether he intends to pose some questions to Ms. Nupur Singh. On the other hand, he refused. Therefore, it is submitted that petitioner has denied opportunity of cross-examination. Further he has pointed out that the enquiry officer while dealing with each of the charge has already assessed the charge with reference to material evidence. However, at the end of the enquiring officer's report he has once again made analysis and assessment. Therefore, the enquiring officer's report is vitiated.

On the other hand, learned counsel for respondent-department resisted the aforesaid contentions and submitted that there is no infirmity in the order of the tribunal and in the result, present petition is liable to be dismissed while affirming the order of the tribunal.

Heard learned counsels for respective parties.



Undisputed facts are that petitioner was subjected to a disciplinary proceeding in framing of article of charges on 13.06.2016. The disciplinary authority was not satisfied with the petitioner's reply on the charge-memo and proceeded to appoint enquiry and presenting officer to hold enquiry on the alleged charge levelled against the petitioner on 13.06.2016. Enquiry officer held that charges levelled against the petitioner was proved to the extent that enquiring officer's report was prepared and submitted to the disciplinary authority. Based on the enquiring officer's report, the disciplinary authority issued show cause notice along with enquiring officer's report seeking petitioner's explanation. Petitioner submitted his explanation on 20th July, 2016. Based on the materials, disciplinary authority proceeded to impose penalty of dismissal from service of petitioner on 04.08.2016. Further it was the subject-matter before the appellate authority and it was rejected on 26.09.2016.

Feeling aggrieved and dissatisfied with the order of the disciplinary and appellate authority petitioner preferred O.A. No. 050/00830 of 2016 before the Central Administrative Tribunal, Patna Bench. The Central Administrative Tribunal rejected the petitioner's original application. Hence the present petition. The tribunal has examined charge-memo and findings.



Similarly, disciplinary authority and appellate authority's order were examined. The petitioner has not made out a case in terms of the *Union of India & Others Vs. P. Gunasekaran* reported in *2015 (2) SCC 610*. In terms of the aforesaid decision, guidelines have been laid down under what circumstances Court can interfere in respect of disciplinary proceedings. In terms of the guidelines issued by the Apex Court, the petitioner could not apprise this Court with reference to any of the point which is required to be agitated in the matter. Similarly, question of re-appreciation of evidence by the Courts in respect of disciplinary proceedings. In other words, there is no provision for judicial review as held by the Apex Court in the case *B.C. Chaturvedi & others Vs. Union of India & others* reported in *AIR 1996 SC 484*. *Prima facie* the petitioner has not made out a case so as to interfere with the order passed by the tribunal dated 27.11.2019. Learned counsel for the petitioner submitted that there is discrepancy in the enquiring officer's report. Question of discrepancy cannot be taken into consideration for the reasons that the petitioner was provided opportunity by the enquiry officer to the extent whether is he intends to pose any question to Ms. Nupur Singh or not, for which he has refused. Therefore, question of providing cross-examination was not warranted.



Today, learned counsel for the petitioner submitted that the petitioner has not been provided cross-examination of Smt. Nupur Singh. The enquiry officer's findings is crystal clear that petitioner refused to pose any question. In such circumstances, question of providing cross-examination to the petitioner was not warranted. In respect of analysis and assessment of evidence on each charge is concerned, there is no infirmity except that the enquiry officer after analyzing each and every charge along with evidence. Further he has written a paragraph relating to analysis and assessment. Thus, the aforesaid analysis and assessment in the last portion of the equiring officer's report do not vitiate the proceedings.

In the light of these facts and circumstances, there is no infirmity in the order of tribunal dated 27.11.2019.

Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	24.06.2022
Transmission Date	

