

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5183 of 2019

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Ramanuj Prasad Singh Son of Late Parmeshwar Prasad Singh Resident of
Village- Mahrath, Police Station- Kashichak, District- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner, Patna Division, Patna
3. The District Magistrate, Nalanda
4. The Additional Collector, Nalanda
5. The Circle Officer, Chandi, District- Nalanda
6. The Circle Officer, Giriyak, District- Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajey Kumar, Advocate
For the Respondent/s : Md. Khurshid Alam, AAG 12

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

Date : 10-10-2022

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

“That this is an application for issuance of a
Writ of certiorari for quashing the order contained in
Memo no. 1652, dated 23.6.2016 (Annexure – 10) issued
under the signature of respondent no. 3 by which petition
has been dismissed from service under Rule 14 (II) of
Bihar Government Servant (Classification, Control and
Appeal) Rules 2005 in most illegal manner and also for
quashing of the Appellate Order dated 20.11.2018
(Annexure – 13) passed by the appellate authority
whereby the appeal filed by petitioner has been rejected
and for issuance of an order/ direction,
directing/commanding the respondents to re- instate



petitioner in service with all consequential benefits as if the impugned order has not been given effect and be further pleased to grant such other relief or reliefs to which petitioner is found entitled in the eyes of law.”

2. The petitioner is stated to have been involved in demand and acceptance of illegal gratification of Rs. 5000/- and he was subjected to parallel proceedings. Criminal proceedings is still pending consideration. On the other hand, disciplinary proceedings which was initiated on 19.03.2014 which has been concluded in imposition of penalty of dismissal from service on 23.06.2016 and it was upheld by the appellate authority on 20.11.2018. Hence, petitioner has presented this petition in questioning the orders of the disciplinary and appellate authority.

3. Learned counsel for the petitioner submitted that list of documents and witnesses were not supplied. The disciplinary authority has framed two charges. One is relating to alleged demand and acceptance of illegal gratification of Rs. 5000/-. The other charge is relating to non-maintenance of certain documents. Charge No. 1 relating to alleged demand and acceptance of illegal gratification of Rs. 5000/- is stated to have been proved, the other charge has not been proved.

4. Learned counsel for the petitioner submitted that the alleged charge relating to demand and acceptance of illegal



gratification of Rs. 5000/- even though it was proved, however, it is not supported by corroborative evidence. None of the prosecution witnesses have been examined in support of alleged charge relating to demand and acceptance of illegal gratification, therefore, findings given by the inquiring officer and its confirmation by the disciplinary and appellate authority are arbitrary and illegal.

5. *Per contra*, learned counsel for the respondents resisted the aforesaid contention and submitted that alleged charge relating to demand and acceptance of illegal gratification has been proved in the inquiry. However, he fairly submitted that proved charge is not by adducing evidence on behalf of the prosecution like producing prosecution witnesses and obtaining their deposition, examination and cross-examination. It is also submitted that while issuing charge memo dated 19.03.2014, Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for short 'Rules, 2005') has not been followed.

6. Heard learned counsels for the respective parties.

7. Perusal of the records and statement made on behalf of the petitioner and official respondents from the inception there is a lacunae namely disciplinary authority has not followed Rule



17 of the Rules, 2005 in framing article of charges, statement of imputation, list of documents and list of witnesses have not been provided. Therefore, from the defective stage till confirmation of penalty by the appellate authority orders are liable to be set aside. Accordingly penalty order and appellate authority order dated 23.06.2016 and 20.11.2018 *vide* Annexures – 10 and 11 stand set aside.

8. In the light of the aforesaid findings that on technicality the impugned orders are set aside, therefore, matter is remanded to the disciplinary authority to commence inquiry afresh from the defective stage in following Rule 17 of the Rules, 2005 and other relevant provisions of law and complete inquiry proceedings within a period of six months from the date of receipt of this order. Since penalty order and appellate authority order are set aside on technicality, therefore, the disciplinary authority is hereby directed to take a decision as to whether the petitioner shall be placed under suspension or he should be taken back to duty in the light of Apex Court decision in the case of ***Managing Director, ECIL V. B Karunakar*** reported in (1993) 4 SCC 727 read with ***Chairman-cum-Managing Director, Coal India Limited & Ors. V. Ananta Saha and Others*** reported in (2011) 5 SCC 142 read with recent Apex Court decision in the case of ***The***



***State of Uttar Pradesh and Others vs. Prabhat Kumar, Civil
Appeal No. 1567 of 2019.***

9. In this regard, disciplinary authority is hereby directed to take a decision either to place the petitioner under suspension or to reinstate him within a period of one month from the date of receipt of this order. Thereafter, disciplinary authority is hereby directed to regulate the intervening period from the date of dismissal i.e. 23.06.2016 till passing of a fresh order in regulating the period in accordance with the relevant provisions of law. Such a decision shall be taken within a period of one month from the date of passing of final order in the inquiry afresh. Accordingly, writ petition stands allowed in part.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	13.10.2022
Transmission Date	

