IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15008 of 2011

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Paramhans Kumar Singh S/O late surendra singh r/o t/553 lohia nagar, police station kankarbagh, dsitt.- Patna At Presently Working As Commercial Taxes Office, Patna

... ... Petitioner/s

Versus

1. The State of Bihar through the Commissioner-cum-Secretary, Commercial Taxes Department, Bihar, Patna
2. The Commissioner-Cum-Secretary, Commercial Taxes Department Govt. Of Bihar, Patna
3. The Additional Commissioner, Commercial Taxes Department, Bihar, Patna
4. The Under Secretary, Commercial Taxes Department, Bihar, Patna

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Santosh Kumar Sinha -2
For the Respondent/s	:	Mr. Lalit Kishor, AG

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 23-08-2022

Heard learned counsels for the parties.

2. The petitioner while working as Assistant Commissioner of Commercial Taxes Department, he was placed under suspension on 07.08.2001 and it was revoked on 16.11.2005. In the meanwhile, he was charge-sheeted in a disciplinary proceedings on 03.08.2002 read with 05.08.2002. The petitioner submitted his explanation on 20.08.2002 while denying the alleged charges and it was not satisfied by the disciplinary authority. Disciplinary authority proceeded to hold an inquiry while appointing an inquiring officer. The inquiring officer held

that the charges levelled against the petitioner were proved. On receipt of inquiring officer's report dated 08.10.2004, the disciplinary authority issued a second show cause notice along with the inquiring officer's report to the petitioner on 29.01.2005. Thereafter, disciplinary authority proceeded to impose the penalty of reversion from the post of Assistant Commissioner to that of Sales Tax Officer for a period of seven years while restricting the subsistence allowance towards suspension period. Feeling aggrieved by the order of the disciplinary authority dated 16.11.2005, petitioner filed C.W.J.C. No. 15002 of 2005 and it was withdrawn on 26.04.2006 with a request to approach the authorities while filing a representation. He had submitted representation on 16.05.2006 and it was rejected by the Government on 08.11.2006. Consequently he had filed one more writ petition namely C.W.J.C. No. 14587 of 2006 and it was disposed off on 28.06.2010 with the following order :

> *"Annexure 15 – A also stands quashed. The respondent authorities would be well advised to give their opinion in the order by virtue of which the petitioner cannot be extended parity in terms of punishment vis-a-vis others. No other indulgence is required in the matter.*
>
> *This writ application stands allowed to the extent indicated above."*

3. The petitioner submitted representation on 08.07.2010 pursuant to the order dated 28.06.2010 passed in C.W.J.C. No. 14587 of 2006. The State Government, after due consideration of the petitioner's representation read with the decision of the learned Single Judge passed in C.W.J.C. No. 14587 of 2006 proceeded to impose the penalty on 02.06.2011. Feeling aggrieved and dissatisfied with the penalty order dated 02.06.2011, the present petition is presented.

4. Learned counsel for the petitioner submitted that imposition of penalty of reversion from the post of Assistant Commissioner to Sales Tax Officer for the period of seven years would be too harsh. It is further submitted that the petitioner has not mislead authorities in furnishing information sought by the UB Distilleries Limited *vide* Annexure - 1 read with Annexure – 2. The aforesaid contention has been taken note of in the disciplinary proceedings. The petitioner has not apprised this Court with reference to material information that there are perverse evidence in the inquiry so as to interfere with the inquiry proceedings on the score that it is a case of no evidence.

5. Apex Court recently in the case of ***Union of India and Others vs. Dalbir Singh*** reported in **(2021) 11 SCC 321** held that scope of judicial review in disciplinary proceedings is limited. In

the light of these facts and circumstances, the petitioner has not made out a case.

6. Accordingly, petition stands dismissed.

7. At this stage, learned counsel for the petitioner submitted that initial order of penalty dated 16.11.2005 is for a period of seven years, the same is required to be given effect. In that event, the currency of the penalty of reversion from the post of Assistant Commissioner to that of Sales Tax Officer would be during the intervening period from 16.11.2005 to 15.11.2012. Thereafter, petitioner’s position is required to be restored, in other words, he should be retained in the post of Assistant Commissioner from 16.11.2012. The concerned appointing authority is hereby directed to restore the position of the petitioner to the post of Assistant Commissioner with effect from 16.11.2012 and extent all service and monetary benefits during the period from 16.11.2012 to 31.12.2012, the date on which petitioner is stated to have attained age of superannuation and retired from service. If the petitioner is entitled to increment during the period from 16.11.2012 to 31.12.2012, in that event increment shall be granted in the post of Assistant Commissioner of Commercial Taxes otherwise his pay scale should be restored with reference to date on which he was drawing as on 16.11.2005, the date on which initial punishment

was imposed. In this regard, State Government is hereby directed to calculate dues of pay and so also fix his pay as on 31.12.2012, the date on which he retired from service. Further, fix his pensionary benefits and pension in the post of Assistant Commissioner of Commercial Tax. The above exercise shall be completed within a period of four months from the date of receipt of this order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	