

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 10476 of 2020

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Sanjay Kumar Sharma Son of Deo Mangal Sharma resident of village-
hanuman Nagar, P.s.- Dhaka, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Agriculture Department, govt. of Bihar, Patna
2. The Secretary Agriculture Department, Govt. of Bihar, Patna
3. The Director, Agriculture, Directorate of Agriculture, Govt. of Bihar, Patna
4. The Joint Director (Agronomy) Tirhut Division, Muzaffarpur
5. The District Agriculture Officer, Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s V R P Singh, Rajan, Advocates
For the Respondent/s : Mr Anant Prasad Singh, SC XV

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 18-08-2022

Heard learned counsel for the petitioner and the learned
State Counsel.

2 While working as Block Agriculture Officer, the
petitioner was served with a charge memo on *Prapatra 'Ka'*.
Allegation is based on an application made by one Nunu Jha
(allegationist) that the petitioner has taken bribe Rs 11,250/- for
construction of thrashing floor. Charge memo is accompanied by
copy of application made by Nunu Jha and reports of two
enquiries dated 29.11.2011 and 25.01.2012 based on some enquiry



preceding the charge memo. The enquiry report, which has been submitted on 26.09.2017, clearly records that no witness, documentary or oral, have been submitted by the charged employee. The Enquiry Officer, relying upon the copy of complaint submitted by the allegationist, two enquiry reports preceding the issuance of charge memo, has concluded the charges to be proved.

3 Learned counsel for the petitioner submits that the findings of the Enquiry Officer are clearly unsustainable. However, the same has been accepted by the Disciplinary Authority who has proceeded to impose punishment based on such an enquiry report. The petitioner has assailed the punishment order also before the Appellate Authority, who has rejected the petitioner's appeal.

4 This Court, having considered the findings of the Enquiry Officer, as contained in Annexure 7, would observe that even the complainant has not been examined in support of the allegation based on two enquiry reports preceding the charge memo. The Enquiry Officer has concluded the petitioner's guilt and, while doing so, has cast onus upon the charged employee to establish his innocence and on failure thereof, has concluded the charges to be proved. The findings are clearly unsustainable. In a



proceeding, the law is well settled. The charges are required to be proved. The Enquiry Officer is required to bring home the charges based on some material and for furtherance of this legal requirement, Rule 17 (14) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (for brevity, *Bihar CCA Rules*) clearly specifies as follows:

“17. Procedure for imposing major penalties.-

... ..

(14) On the date fixed for the inquiry, the oral and documentary evidence by which the articles of charge are proposed to be proved shall be produced by or on behalf of the disciplinary authority. The witnesses shall be examined by or on behalf of the Presenting Officer and may be cross-examined by or on behalf of the Government Servant. The Presenting Officer shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without the leave of the inquiring authority. The inquiring authority may also put such questions to the witnesses, as it thinks fit.”

5 The enquiry report manifests clear violation of Rule 17 (14) of Bihar CCA Rules, since no witness including the complainant has been examined in the enquiry. Relying upon two enquiry reports, which were got conducted by the authorities prior to issuance of charge memo, the petitioner has been visited with the order of punishment. The order of punishment is, thus, clearly unsustainable.



6 The punishment order dated 07.05.2019 (Annexure 11) as well as the order passed by the Appellate Authority dated 05.05.2020 (Annexure 13) passed in affirmation of the illegal order dated 07.05.2019, are thus clearly unsustainable. The same are quashed.

7 Writ petition is allowed.

8 Petitioner is entitled to all consequential benefits.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.09.2022
Transmission Date	NA

