

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.294 of 2021

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Ranjan Kumar Chauhan, aged about 58 years, male, Son of Late Jiyalal Singh Resident of Mohalla- Professor Colony, Ward No.6, Nirmali, P.S.- Nirmali, District- Supaul.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Commissioner-cum-Secretary, Department of General Administration Department, Bihar, Patna.
3. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
4. The Joint Secretary, General Administration Department, Government of Bihar, Patna.
5. The Under Secretary, General Administration Department, Government of Bihar, Patna.
6. The Deputy Secretary, General Administration Department, Government of Bihar, Patna.
7. The Deputy Secretary, Rural Development Department, Government of Bihar, Patna.
8. The Divisional Commissioner, Purnea Division, Purnea-cum-Enquiry Officer.
9. The District Magistrate, Purnea.
10. The Deputy Development Officer, Katihar-cum -presenting Officer.
11. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Indu Bhushan with Ms. Priyanka Kumari, Advocates
For the Respondents	:	Mr. Manoj Kumar AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-07-2022

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

2. The writ application has been filed challenging the impugned order of penalty contained in order dated 28-02-2011 (Annexure -14) bearing Memo No 2412 issued by the Under



Secretary, General Administration Department, Government of Bihar, Patna. The petitioner has also availed the remedy of review by way of a memorial under Rule 24(2) of the Bihar Government Servants(Classification, Control & Appeal) Rules, 2005 (for brevity ‘ the CCA Rules, 2005’). The same has also been rejected.

3. As a consequence of the impugned order of penalty, the petitioner has been imposed the punishment of withholding of five increments with cumulative effect; and that his case shall not be considered for promotion within five years

4. The submission of the petitioner’s counsel is that the Presenting Officer has not produced any evidence, documentary or oral against the petitioner. The proceedings, therefore, suffer from procedural infirmity being non-compliance of Rule 17(14) of the Bihar CCA Rules 2005.

5. The learned State counsel, referring to the pleadings in the writ petition, itself submits that from the petitioner’s response to the charge memo as well as memorial it is evident that the petitioner has admitted that he has made advance payments for the works without verifying the measurement book in respect of various work as per allegations contained in charge memo issued on *Prapatra-Ka*. He has justified the



payments by stating before the Enquiry Officer as well as the Reviewing Authority that the works of soling and other public interest works were pending since long and, therefore, considering the fact that the Block Development Officer posted prior to the petitioner had made advances, he has also made advances in public interest. The petitioner's admission in his written statement as well as in his memorial, leaves nothing to be done in terms of production of any evidence oral or documentary as it is his own case in the appeal that the beneficiaries of the advances, namely Jyotish Kumar Bhagat has subsequently returned the unutilized amount of advances to the tune of Rs. 13,00,000/-, which was paid to him. The infirmity alleged does not cause any prejudice to the petitioner in view of his stand admitting the making of advances to the said Jyotish Kumar Bhagat.

6. The law is well settled that the principles of natural justice can be invoked only if prejudice is caused on account of failure of natural justice. The legal position is manifest even in Rule 17(5)(a) of the Bihar CCA Rules, 2005 which contemplates that when charge is admitted, the disciplinary Authority shall record his findings after taking such evidence as it may think fit.



7. Even in paragraph 7 of the writ petition the petitioner has admitted to making of 10 advances. Relevant extract of paragraph 7 reads as follows:-

“7. That it is stated that after receiving letter no. 6585/C dated 27.10.2007, the petitioner vide letter No. Zero dated 31.10.2007 submitted his explanation before the Respondent No. 9 and in his explanation, the petitioner stated that for Scheme No. 01/2001-02, he did not give any advance amount, but due to non measurement of the work, scheme is pending. For Scheme No. 03/2001-02 he did not give any advance amount, but measurement work has not been completed. For other Schemes total 10 he gave advance amount to the agent, but due to non-measurement of the completed schemes real fact could not be brought on record and lastly requested kindly constitute a team of engineers for measurement of the schemes and prayed to exonerate him from the charges.”

8. In the instant case, in view of the petitioner's own admission, this Court would observe that the failure to produce witness (oral or documentary) would not allow the petitioner to take the benefit of non compliance of natural justice, to assail the punishment.

9. The writ application is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10-08-2022
Transmission Date	

