

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6429 of 2008

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Bipin Kumar Singh s/o late Kuldeep Narayan Singh resident of village-
Shukhpur Dyordhi, P.O.-Shukhpur Dyordhi, P.S.-Supaul, Dist.- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District and Session Judge, Aurangabad
3. The Sub-Judge III,-cum-Judge Incharge, Civil Court, Aurangabad.
4. The 5th Additional District and Session Judge, Aurangabad.
5. The Additional District and Session Judge (F.T.C. V), Aurangabad.
6. The Additional District and Sessions Judge, F.T.C. IV, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajeev Kumar Singh, Advocate

For Respondent Nos. 2 to 6: Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 22-08-2022

Heard learned counsels for the parties.

2. In the present petition, petitioner has prayed for
following reliefs:-

“1. That this is an application on behalf of above named petitioner for issuance of appropriate writ (s)/ order(s)/ direction(s) to respondents for following relief(s):-

(i). To quash the order no. 05/08 dated 10-01-08 issued by the learned District and Session Judge, Aurangabad. So far it relates to petitioner, where by and whereunder the petitioner has been found guilty for setting ablaze records of 111 Sessions trials files and there upon have been reverted in the pay scale of Rs. 30-50-4590/- and further has been directed not to pay the full salary for the period of suspension.

(ii) To direct the respondent for pay the remaining amount of salary during suspension period to the



petitioner.

(iii) To direct the respondents to reinstate the petitioner on his previous post with all service benefits.

(iv) To grant any other relief(s) for which the petitioner may be found entitled to.”

3. The petitioner while working as a Bench Clerk-cum-Office Clerk of Fast Track Court IV, Aurangabad along with three employees was placed under suspension on 26.05.2004 on the alleged allegations relating to burning of records of III Sessions Trial pending before F.T.C. IV, Aurangabad. The alleged allegation is that petitioner and two others in connivance with each of them alleged to have set on fire. Petitioner was charge-sheeted on 28.06.2004. He had submitted his written reply on 25.05.2005 and further supplementary reply on 17.04.2006. The enquiring officer submitted his report holding that the charges levelled against the petitioner were proved. On receipt of enquiring officer's report, disciplinary authority -District & Session Judge, Aurangabad proceeded to issue second show cause notice on 02.01.2007 for which petitioner is stated to have filed his reply on 01.02.2007. Based on the records, disciplinary authority proceeded to impose penalty of reducing the petitioner's pay-scale from Rs. 4000- 6000/- to Rs. 3050 – 4590/-.

4. Feeling aggrieved and dissatisfied with the order of punishment, petitioner has presented this petition.



5. Learned counsel for the petitioner vehemently contended that no presenting officer was appointed, order of appointment of enquiring officer was not communicated, document No. 3 (from the list of documents) was not made available to the petitioner. It is further submitted that author of the report-Documents No. 3 has not been examined and cross-examined.

6. Per contra, learned counsel for the respondent resisted the aforesaid contention and submitted that perusal of the enquiring officer's report suffice that presenting officer was appointed. Petitioner was bound by Rules called "***Bihar Civil Court Staffs (Class III and Class IV) Rules, 1998***". In terms of Rule 18 there is no provision for providing copy of the order of appointment of enquiring officer and presenting officer. It is further submitted that Document No. 3 (list of documents) was made available to the petitioner as he himself has admitted in statement dated 25.05.2005. The author of Document No. 3 (list of documents) has not been examined as the concerned employee is stated to have left the Godrej Company and incumbent has been examined. In the light of these facts and circumstances, petitioner has not made out case so as to interfere with the order of penalty.

7. Heard learned counsels for respective parties.

8. Undisputed facts are that petitioner was subjected



to disciplinary proceedings for the alleged misconduct that he and two others in collusion alleged to have set on fire burning records of III Sessions Trial pending before Fast Track Court IV, Aurangabad. In the disciplinary proceedings, petitioner was imposed penalty of reducing the pay from Rs. 4000 -6000/- to Rs. 3050 – 4590/-. Each of the contention raised by the petitioner has been answered by the counsel for the respondent with material information like Rule and Enquiry Officer's report.

9. Perusal of Rule 2 of Rules, 1935, disciplinary authority is not empowered to impose a particular penalty for a particular tenure/period.

10. Petitioner has not apprised any other legal issue so as to interfere with the impugned order dated 10.01.2008.

11. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

