

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17226 of 2008

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Renuka Sinha, Wife of late Gour Kishor Prasad, Son of Late Govind Prasad,
Resident of C/205, Rastrapati Apartment, Magistrate Colony, Ashiana Nagar,
Near Ashiana Nursing Home, Police Station-Shastri Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Personnel and Administrative Reforms Department, Government of Bihar, Patna.
2. The Accountant General, Birchand Patel Marg, Patna.
3. The Under Secretary, Personnel & Administrative Reforms Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. M. Chatterjee, Advocate
For the Respondent/s : Mr. AAG9

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

Date : 11-07-2022

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

“I. That an appropriate writ may be issued quashing the communication vide Memo No. 12276 dated 02.12.2006 as contained in Annexure 9 to the petition whereby and whereunder the Respondent No. 3 has communicated the decision of the State Government regarding deduction of pension of the petitioner as punishment in a departmental proceeding under section 43 (b) of the Bihar Pension Rules.

II. That an appropriate writ may be issued commanding upon the respondent authority not to take any coercive steps against the petitioner during the pendency of this writ application.

III. Any other relief/reliefs may be granted to the petitioner as he is found entitled to in the facts and circumstances of the case for the ends of justice.”



Petitioner while working as a Deputy Secretary attained age of superannuation and retired from service on 31.01.1994. Thereafter, on certain allegations he was subjected to disciplinary proceedings on 27.08.1996 while framing 8 charges. The inquiring officer submitted his report holding that only one charge was proved. On receipt of inquiring officer's report dated 10.01.2003 the disciplinary authority issued a show cause notice on 22.02.2005 seeking petitioner's explanation on the inquiring officer's report. Petitioner submitted explanation on 07.12.2005, thereafter, the disciplinary authority proceeded to impose penalty of withholding of 5% from the pension on 02.12.2006, thus, petitioner has presented this petition.

Learned counsel for the petitioner submitted that having regard to the proved charge there is no grave misconduct. Therefore, imposition of penalty of withholding of 5% pension with reference to Rule 43 (b) of Bihar Pension Rules is arbitrary and illegal.

Per contra, learned counsel for the respondent resisted the aforesaid contention and submitted that charge proved is relating to recommendation to release of fund to NGO. The petitioner is a recommending authority/officer, without examining various issues whether the concerned NGO fulfills the requisite



criteria for the purpose of claiming certain monetary fund from the State or not such charge was proved. Based on the recommendation of the petitioner certain amounts have been released in favour of the NGO. Such proved misconduct amounts to grave misconduct. Merely non-mentioning of grave misconduct in the impugned order the petitioner is not entitled to claim that the alleged proved charge is not a grave misconduct.

Heard learned counsels for the respective parties.

Undisputed facts are that the petitioner was subjected to disciplinary proceedings on 8 charges and only one charge was proved. Though inquiry has been held after retirement of the petitioner, however, it is in accordance with the relevant rules. Question for consideration is whether proved charge is grave misconduct or not?

Undisputedly, the petitioner is an officer of the department had recommended for release of certain funds to the NGO and it was not after holding an inspection and NGO fulfilling the relevant criteria for the purpose of claiming fund from the State.

Prima facie, there is a loss to the State exchequer in releasing funds to the NGO on the recommendation of the petitioner. Such recommendation without inspection and without



material information that NGO was eligible to claim certain monetary benefits from the State. Petitioner’s conduct in recommendation for release of fund is a grave misconduct. Further, writ court cannot re-appreciate evidence like an appellate authority. That apart, recently Hon’ble Apex Court in the case of **Union of India & Ors. Vs. Dalbir Singh** reported in **(2021) 11 SCC 321** held that Tribunals and Courts should not re-appreciate evidence.

In the light of the Hon’ble Apex Court decision in the case of **Dalbir Singh** (supra) the petitioner has not made out a case so as to interfere with the impugned order. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

shanu/-

AFR/NAFR	NAFT
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

