IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4914 of 2017

Lalkeshwar Prasad Son of Late Bhatu Tanti Assistant Accounts Officer, BSNL, Office of T.D.M., Khagaria Bihar.

... ... Petitioner/s

Versus

1. The Union Of India through the Chairman cum Managing Director, Bharat Sanchar Nigam, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi.
2. The Director (HR), Bharat Sanchar Nigam Limited, Bharat Sanchar Bhawan, H.C. Mathur Lane, Janpath, New Delhi -110001.
3. The Chief General Manager, Telecom, Bihar Circle, B.S.N.L., Patna Bihar.

... ... Respondent/s

Appearance :

For the Petitioner/s	:	Mr. J.K. Karn, Adv. Mr. Sujeet Kumar, Advocate
For the Respondent/s	:	Mr.Harendra Prasad Singh, Advocate Mr. Santosh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 21-07-2022

In the instant petition petitioner has assailed the order of the Tribunal dated 27.01.2016 passed in OA No.870 of 2012 by which Tribunal has upheld the order of the Disciplinary and Appellate authorities orders dated 16.06.2012 and 15.07.2013 respectively.

2. The petitioner who is working as Accounts Officer and Incharge Financial Head had alleged to have committed certain misdeeds for which he was subjected to disciplinary proceedings in framing of article of charges on 16.08.2008. He had submitted explanation on 13.08.2009 denying the allegation, in the result disciplinary authority was not satisfied with the petitioner's explanation and proceeded to hold inquiry. The inquiring officer submitted report holding that charge no.1 was not proved, charge no.2 was partly proved and charge no.3 was proved. On receipt of inquiring officer's report show cause notice was issued to the petitioner on 03.06.2010, for which petitioner is stated to have submitted his reply. On receipt of petitioner's reply on the show-cause notice, disciplinary authority proceeded to impose penalty of reduction by one stage in the time scale of pay for the period of two years with the cumulative effect. Feeling aggrieved and dissatisfied with the order of the disciplinary authority dated 16.06.2012 he preferred appeal. Appeal was rejected on 15.07.2013. Thus petitioner filed OA No.870 of 2012 and it was rejected by the Tribunal on 27.01.2017, hence the present petition.

3. Learned counsel for the petitioner vehemently submitted that two more officials were subjected to inquiry in respect of similar charges and they have been punished with a

minor penalty on one and another was exonerated. Therefore, imposition of one of the major penalty on the petitioner is not commensurate with the proved charges. It is further submitted that it is a case of no evidence for the reasons that inquiring officer has not given finding in respect of partly and proved charge no.2 and 3 respectively. Therefore, the tribunal has committed error in not appreciating the aforesaid contention.

4. The counsel for the petitioner has restricted his arguments in respect of challenge to the order of the tribunal only to the above extent.

5. Per contra learned counsel for the respondents resisted the aforesaid contentions and submitted that having regard to the fact that the petitioner was Accounts Officer and Incharge Financial Head, he has simply proceeded to approve whatever the subordinate officials forwarded papers in respect of three Detailed Estimate and Purchase Documents. The inquiring officer has given finding in respect of partly proved and proved charges article 2 and 3 respectively. It is further submitted that question of discrimination among employees who are similarly charged cannot be appreciated for the reasons that it is not a case of common proceedings therefore whatever the penalty imposed on another employee cannot be taken to consideration in the present case.

Therefore, there is no infirmity in the order of the disciplinary, appellate authorities and tribunal.

6. Heard learned counsel for the respective parties.

7. Undisputed facts are that the petitioner was subjected to disciplinary proceedings in framing three charges on 16.08.2008. Charge No.1 was not proved, charge no.2 partly proved and charge no.3 was proved. Thereafter, the disciplinary authority after due compliance of show-cause notice proceeded to impose the penalty of reduction by one stage in the time scale of pay for the period of two years with cumulative effect and it was subject matter of appeal in which disciplinary authority order was confirmed. Thereafter, the petitioner has invoked remedy before the Central Administrative Tribunal in which order of the disciplinary and appellate authorities were confirmed.

8. Learned counsel for the petitioner submitted two folds arguments, namely the inquiring authority has not given finding with reference to material information and the same has not been taken note by the disciplinary, appellate authority and Tribunal. The aforesaid contention cannot be appreciated for the reasons that petitioner being a Accounts Officer and Incharge Head of the Finance Section, he is merely accepted the recommendation submitted by his subordinates in respect of sanctioning three

Detailed Estimate and Purchase Documents. The aforesaid material information has been taken into consideration by the inquiring authority while giving finding that charge no.2 and 3 were proved partly and fully. The Apex Court time and again hold that under Article 226 of the Constitution writs courts should not re-appreciate evidence therefore, aforesaid contention is touching with the evidence and the same cannot be reappreciated in writ jurisdiction, therefore the aforesaid contention stands rejected.

9. The other contention is that the disciplinary authority has discriminated in imposing penalty like petitioner was punished with major penalty on the other hand other two persons, one person has been exonerated and another was punished with a minor penalty. The aforesaid contention cannot be appreciated for the simple reasons that it is not a case of common proceeding among the petitioner and two others so as to examine whether disciplinary authority has discriminated in imposition of penalty. That apart one has to draw inference each individuals role in respect of certain alleged allegations. In the present case the petitioner was holder of the post of Accounts Officer-cum-Incharge Head of the Finance Section and there is dereliction of duty as is evident from the record. Hence, it is not a case of discrimination in imposition of penalty.

10. Accordingly, the present petition stands dismissed while confirming the order of the disciplinary, appellate authority and tribunal order dated 27.01.2016 passed in OA No.870 of 2012.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

AFR/NAFR	NAFR
CAV DATE	NA
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