

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16526 of 2022

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Afroz Parwana Son of Late Nizamuddin, Resident of Village/Mohalla- Ali
Nagar, Ward No. 22, Saharsa (Sitanabad Saharsa), P.S.- Simri Bakhtiyarpur,
District- Saharsa ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, (Secondary Education)
Human Resources Development Department, Govt. of Bihar, Patna.
 2. Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
 3. Regional Deputy Director, Education Department, Govt. of Bihar, Patna.
 4. Director, Secondary Education, Bihar, Patna.
 5. District Education Officer, Saharsa.
 6. Janardan Ray, Son of not known to the petitioner, Assistant Teacher in
Apoorv High School, Balwahat, District- Saharsa.
 7. Amrendra Kumar Son of Late Dhaneshwar Singh, Niyojit Teacher in Apoorv
High School, Balwahat, District- Saharsa. ... Respondents
- =====

Appearance :

For the Petitioner/s : M/s Pramod Kumar & Ritesh Kumar, Advts.
For the Respondent/s : Mr. Kameshwar Kumar, GP XVII with
Mr. Arbind Kumar, AC to GP XVII

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 13-12-2022 Heard the parties.

The petitioner by way of this writ petition assails the order of punishment awarded to the petitioner by stopping one grade increment with cumulative effect and withholding of salary apart from subsistence allowance during suspension period by the impugned order dated 11.04.2022 and also assails the order whereby the appeal preferred by him was rejected by order dated 29.08.2022.

Learned counsel for the petitioner submits that there were two teachers in his school, namely, respondents no. 6 and



7, who were the trouble mongers and there was litigation initiated by the petitioner as against one of them in relation to inter se seniority while the other person had taken away the attendance register. Because of these two teachers, complaints were lodged against the petitioner and the enquiry was initiated on a false premise. Learned counsel submits that upon transfer the charge was not accepted by the respondent and the petitioner had to file a complaint whereafter the charge was taken over from him and therefore such an allegation could not have been made for not handing over the charge.

Learned counsel further submits that there was no casualness on his part in distribution of amount under the scheme and in fact the distribution was not made while the respondent no. 6 was holding the charge. Both the disciplinary authority as well as the appellate authority have failed to consider this aspect and have wrongfully punished him.

I have considered the submissions.

The scope of interference in departmental enquiry is very limited. The Supreme Court in the case reported in **(2017) 4 SCC 507 (Central Industrial Security Force & Ors. Vrs. Abrar Ali)** has held as under :

The High Court held that the Respondent resumed duty and left the unit line in view of the fear for his life from the residents of the locality due to the registration of FIR. The High Court found that no



misconduct was committed by the Respondent in disobeying the directions of his superiors not to leave the unit line. The High Court was of the opinion that any prudent person would have acted in the same manner. The High Court held that the Charge proved was not serious for which the Respondent should be punished.

Contrary to findings of the Disciplinary Authority, the High Court accepted the version of the Respondent that he fell ill and was being treated by a local doctor without assigning any reasons. It was held by the Disciplinary Authority that the Unit had better medical facilities which could have been availed by the Respondent if he was really suffering from illness. It was further held that the delinquent did not produce any evidence of treatment by a local doctor. The High Court should not have entered into the arena of facts which tantamounts to re-appreciation of evidence. It is settled law that re-appreciation of evidence is not permissible in the exercise of jurisdiction under [Article 226](#) of the Constitution of India.

In Union of India & Ors. v. P. Gunasekaran reported in (2015) 2 SCC 610, this Court held as follows:

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the inquiry officer. The finding on Charge I was accepted by the disciplinary authority and was



also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into re- appreciation of the evidence. The High Court can only see whether:

(a) the inquiry is held by a competent authority;

(b) the inquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person 13.could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;



of fact is based on no evidence.”

Considering the aforesaid aspect this Court finds that both the disciplinary authority and the appellate authority have taken into the consideration contention raised by the petitioner and they have proceeded to take the decision thereto holding factually about the distribution of the amount having not been made while the petitioner was holding the charge of the Principal. The allegation of malice as against respondents 6 and 7 was also examined. However, this Court finds that while there may be enmity between the petitioner and the respondents, none of them was holding any such office whereby they could have issued the memo of charge to the petitioner or punished him. The disciplinary authority being the independent person and no allegation of malafide being against him, the aspect can not be examined in writ jurisdiction. The orders passed do not warrant interference keeping in view the scope under writ jurisdiction.

The writ petition is therefore dismissed.

(Sanjeev Prakash Sharma, J)

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