

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1566 of 2019

In
Civil Writ Jurisdiction Case No.23283 of 2011

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1. The Registrar (Administration), Patna High Court Patna.
 2. The District and Sessions Judge, Jehanabad in capacity of Administrator.

... .. Appellant/s

Versus

1. Niraj Kumar Rajak son of Late Tunnulal Rajak, resident of village Metra, P.S. Ghoshi, District Jehanabad.
2. The State of Bihar through the Law Secretary, Old Secretariat, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Piyush Lall, Adv.
For the Respondent/s : Mr. Lalit Kishore (AG)

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

Date : 04-07-2022

Heard learned counsel for the parties..

2. In the instant petition the appellants have questioned the validity of the order dated 06.05.2019 passed in CWJC No.23283/2011 by which the respondent's petition was allowed while quashing the punishment of withholding of two increments with the cumulative effect in a departmental inquiry and further directed the Disciplinary Authority to take a fresh decision in accordance with law. The respondent had joined service in the year 2004, while he was working in the Trial Court he is alleged to have committed certain misdeeds for which he was subjected to



disciplinary proceedings in framing charges. Two charges are as under:

“1. Where as your Neeraj Kumar Rajak, being posted as office clerk in the court of Sri R.N. Nigam, J.M. 1st class, Jehanabad had not put up the order dated 20.12.2006 passed by the Hon'ble High Court in Cr. Misc. No. 31196 of 2005, before the Presiding Officer of the court for compliance of the Hon'ble Court's order, and thereby you were grossly negligent and careless in performance of your duty.

2. Secondly, whereas you while submitting your explanation dated, 24-9-07, as sought for by the Presiding Officer Sri R.N. Nigam, J.M. 1st Class as to why the Hon'ble Courts order was not put for compliance, you used very harsh, indisciplined and derogatory language against the court viz- 'cunningly', 'false claim', 'to save his own skin', he has tried to make a castle in the air etc., which amounts to gross misconduct and insubordination.”

3. Only charge no.2 was proved. On receipt of Inquiry Officer's report the Disciplinary Authority completed the formalities in providing Inquiry Officer's report along with the show-cause notice and thereafter proceeded to impose the penalty of withholding of two increment with cumulative effect.



4. Feeling aggrieved and dissatisfied with the penalty order respondent preferred CWJC No.23283/2011 and it was disposed of on 06.05.2019 with the following order.

“In that view of the matter, the order no.18/2018 dated 11.03.2008 issued vide Memo No.338-340/2008 is quashed and the matter is remanded back to the Disciplinary Authority to take a decision in accordance with law.”

5. Undisputed facts are that respondent was a new entrant to the service. He was not aware of using the language while submitting explanation in a departmental enquiry to an higher authority i.e. the second charge which was proved in the inquiry. Having regard to the fact that respondent was a new entrant the Disciplinary Authority should have taken lenient view which was observed by the learned Single Judge in the impugned order. This Court has also taken note of various decisions of the Court including Hon'ble Supreme Court decision, namely, Chennai Metropolitan Water Supply and Sewerage Board and Ors. Vs. T.T. Murali Babu reported in **(2014) 4 SCC 108**. Similarly Raghubir Singh vs Gen. Manager, Haryana reported in **(2014) 10 SCC 301** relating to doctrine of proportionality. In the light of these facts and circumstances and the fact that respondent was a new entrant the Disciplinary Authority should have taken a



lenient view in imposing any of the minor penalty in stead of imposing major penalty. Imposition of major penalty would affect the respondent's service in future also. Therefore, the learned Single Judge while quashing the penalty order remanded the matter to the Disciplinary Authority to take a decision in accordance with law.

6. Learned counsel for the appellant vehemently contended that having regard to the language employed by the respondent in submitting explanation in a departmental inquiry he has use the word cunningly, false claim and to save his own skin. In the absence of politeness in the language there is no infirmity in imposing major penalty. Language used by the respondent is crystal clear that some one has drafted the explanation on behalf of the respondent for the reasons that respondent was holder of only an Assistant Post. That apart the respondent had tendered apology which was also taken note of by the Inquiry Officer and Disciplinary Authority. Despite these factual aspects imposition on major penalty shocks the concious of the court therefore the learned Single Judge has remanded the matter to the Disciplinary Authority to take a fresh decision in accordance with law.

7. We are of the view that there is no infirmity so as to interfere with the learned Single Judge order dated 06.05.2019



passed in CWJC No.23283/2011. Accordingly, petition stands dismissed. The Disciplinary Authority if he has not taken any decision in terms of the learned Single Judge order, he is hereby directed to pass suitable order of imposition of any of the minor penalty within a period of eight weeks from the date of receipt of this order. To the above extent order of the learned Single Judge is modified and LPA is stands disposed of.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Prakash Narayan /-

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