

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1348 of 2020

Amrendra Kumar Aman, Son of Late Daroga Chaudhary, Resident of
Mohalla- Gola Road, Ward No. 38, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Water Resources Department, Government of Bihar,
Patna.
3. The Additional Secretary Water Resources Department, Government of
Bihar, Patna.
4. The Joint Secretary Water Resources Department, Government of Bihar,
Patna.

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr. Satish Chandra Jha 3, Advocate
For the State	:	Mr. Sriram Krishna, AC to SC-11

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 20-06-2023

1. Heard learned counsel for the petitioner and
learned counsel for the State.

2. While the petitioner was posted as an Executive
Engineer, Irrigation Division, Narpatganj, he was proceeded
against on the basis of a charge memo dated 05.03.2010. The
charge memo contained 2 charges, which reads as follows:-

*“a. It has been alleged that the Charged Officer,
while executing the work under Agreement No.
25F2/2000-01 and 29F2/2000-01, did not get the
Pre-Level verified from the Independent Quality
Control Division nor did he himself test the Pre-
Level.*



b. Upon completion of the said work on 26.06.2001, the Charge Officer did not verify the Post-Level entries before the rains.”

3. There is no dispute of the fact that the petitioner was posted as Executive Engineer at the relevant place in between 06.02.1999 to 25.10.2000.

4. A very short submission has been advanced on behalf of the learned counsel for the petitioner that when there is no dispute of the petitioner being there only till 25.10.2000, it is beyond comprehension as to how the charge of not verifying the Post-Level entries of the work upon its completion on 26.06.2001 can be proved against the petitioner. He submits that the entire proceedings against the petitioner is a premeditated exercise to achieve the desired result of holding him guilty and, therefore, without considering the petitioner's response to the charge memo and ignoring the admitted position that the petitioner was not posted at the relevant place on 26.06.2001, he has been held guilty of a charge in relation to a period beyond his posting at the relevant place. The findings of the enquiry officer and decision of the Disciplinary Authority dated 29.04.2019, to this effect, therefore, are submitted to be perverse and impossible.

5. The Revisional Authority also has failed to



consider that the findings are baseless and perverse, and has affirmed the punishment, vide its order dated 26.11.2019.

6. Learned counsel for the State, however, submits that due opportunity has been granted to the petitioner. The proceedings arise out of a charge memo. Petitioner's defence was considered and the findings have been recorded in the enquiry in accordance with the procedure.

7. On consideration of the rival submissions, this Court, having regard to the scope of judicial review in matters arising out of departmental proceedings would consider it apposite to take notice of decision of the Hon'ble Apex Court in the case of *Union of India & Ors. vs. P. Gunasekaran* reported in *(2015) 2 SCC 610*. True it is that the this Court is not expected to examine the order as an appellate authority and confine the scope of the judicial review to the decision making process. The exception, however, as per decision of the Hon'ble Apex Court in the case of *P. Gunasekaran* (supra) are fully applicable in the instant case. This is because the finding of the petitioner being guilty for an alleged occurrence of 26.06.2001, when there is no dispute that he was not even posted there at the relevant point of time is nothing but a perverse finding. Such perverse finding cannot be made the basis of visiting the



petitioner with any penal consequence. The order of punishment dated 29.04.2019 holding the petitioner guilty and visiting him with the penal consequence of withholding of 3 annual increments with cumulative effect is, therefore, unsustainable.

8. The order of the Revisional Authority shows no consideration for this aspect of the matter and is nothing but an affirmation of this illegal and perverse order and, therefore, must also collapse.

9. The orders dated 29.04.2019 and the order of the Revisional authority dated 26.11.2019 are hereby quashed. The petitioner would be entitled to all consequential benefits.

10. Writ application is allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.07.2023
Transmission Date	NA

