

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.920 of 2023

=====

Ranjan Prasad Samayar, Son of Sri Rajendra Prasad Samayar, Resident of Flat NO.204, Badri Narayan Bhawan, Nehru Nagar, P.S. Patliputra, District Patna.

... .. Petitioner

Versus

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

... .. Respondents

=====

Appearance :

For the Petitioner/s : Mr. Prabhat Ranjan, Advocate
For the Respondent/s : Mr. Vikash Kumar, SC-11

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 24-04-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. Petitioner in the present case is seeking the following reliefs:-

“i. Quashing of the Punishment Order dated 15.12.2017 contained in Memo No. 2235 whereby the Disciplinary Authority, proceeded to impose a major penalty on the Petitioner as per Rule 14 (VI) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, and has ordered for “Reduction in time scale pay for two years on three pay stages.”

ii. Quashing of the Order in Review dated 10.07.2018 contained in Memo No. 1481 passed by the Reviewing Authority, whereby the Review Petition filed by the Petitioner is dismissed based on the presumption and



presupposition of duty owed by the Petitioner, without mentioning the actual act committed by the Petitioner.

iii. Restraining the Respondents from giving effect to the Punishment Order dated 15.12.2017 contained in Memo No. 2235 and Order in Review dated 10.07.2018 contained in Memo No. 1481 till the pendency of the present writ Petition.”

3. Learned counsel for the petitioner submits that at this stage, he is raising a short question which would be sufficient for setting aside of the impugned order and remitting the matter back to the Disciplinary Authority for fresh consideration. It is submitted that as many as six charges were framed against the petitioner which would be evident from Annexure ‘2’ to the writ application. In the disciplinary proceeding conducted against the petitioner, the Inquiry Officer found that none of the charges could be proved. The Disciplinary Authority, however, differed with the Inquiry Officer, recorded a note of difference vide Annexure ‘3’ to the writ application and served the same upon the petitioner. The petitioner responded to the said note of difference vide Annexure ‘4’ to the writ application whereupon the Disciplinary Authority came out with the impugned order as contained in Notification No. 2235 dated 15.12.2017 (Annexure ‘5’ to the writ application) whereby and whereunder the Disciplinary



Authority has though taken note of the submissions of the petitioner in his second show cause but in ultimate analysis, simply recorded that the petitioner has reiterated the same and one thing which he had stated before the Inquiry Officer, therefore, the second show cause is not fit to be accepted.

4. Learned counsel has taken this Court through the impugned order as contained in Annexure '5' particularly the last two paragraphs whereunder the Disciplinary Authority has concluded his discussions. It is stated that the Disciplinary Authority has committed a jurisdictional error by not carefully examining the show cause of the petitioner and considering the same. This is also in violation of principles of natural justice.

5. Learned counsel submits that the Reviewing Authority has rejected the review filed by the petitioner without going into the grounds raised in the review application.

6. A counter affidavit has been filed on behalf of the State. It is stated therein that the second show cause filed by the petitioner was duly examined by the Disciplinary Authority and it was found that the petitioner had reiterated the defence submitted before the Inquiry Officer and had not given any additional evidence or specific reply on the points of the disagreement. The impugned orders have been defended saying



that the same have been passed in consonance with the principles of natural justice.

7. Having heard learned counsel for the petitioner and the State, this Court finds that in its order (Annexure '5' to the writ application), the Disciplinary Authority has though taken note of the submissions of the petitioner but thereafter, the Disciplinary Authority has proceeded to reject the same by simply stating that the petitioner has taken same and one defence which he had taken before the Inquiry Officer. No care has been taken to examine the defence of the petitioner in his second show cause which would lead this Court to take a view that the impugned orders suffer from jurisdictional error and it has been passed in violation of principles of natural justice. The impugned order suffers from the vice of its being a non-speaking and unreasoned order.

8. The order passed by the Reviewing Authority has simply recorded the facts of the case leading to conduct of the inquiry and passing of the impugned order by the Disciplinary Authority. The Reviewing Authority has not at all considered the grounds raised on behalf of the petitioner.

9. In result, the impugned orders as contained in Annexure '5' and '6' to the writ application are set aside. Matter



is remitted to the Disciplinary Authority for considering the second show cause of the petitioner afresh, deal with each of the submissions made by the petitioner and pass a reasoned order in accordance with law within a period of four months from the date of receipt/production of a copy of this order.

10. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

lekhi/-

U			
---	--	--	--

