

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.476 of 2019

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Rajesh Kumar, Son of Late Ram Kishun Das, Resident of Mohalla-101,
Shashi Rangoli Apartment (Post-Office Road), P.S.-Shastri Nagar, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department , Government of Bihar, Patna
3. The Commissioner, Department Enquiry, General Administration Department, Government of Bihar, Patna
4. The Additional Secretary, General Administration Department, Government of Bihar, Patna
5. The District Magistrate, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Sr. Advocate
		Mr. Mithilesh Rai, Advocate
For the Respondent/s	:	Mr. Sanjay Kumar Ghosarvey, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

6 07-02-2023 This writ petition has been filed for following reliefs:-

1. *“For issuance of a writ in the nature of certiorari to quash the resolution contained in Memo No. 2906 dated 01.03.2018, issued under the signature of Additional Secretary, General Administration Department (Hereinafter to be referred as the Department), Government of Bihar, Patna, said to have been issued under the order of the Governor, State of Bihar whereby and whereunder the punishment of Censor and stoppage*



of two increments have been said to be imposed upon the petitioner under the Provisions of Section 14 of the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (Herein after to be referred as C.C.A. Rules, 2005).

- II. *For issuance of writ in the nature of certiorari and/or any other appropriate writ/writs for quashing the resolution contained in Memo No. 10617 dated 07.08.2018, said to have been issued under the order of the Governor, State of Bihar and communicated under the signature of Additional Secretary, Government of Bihar, Patna whereby and where under the resolution of the Government has been communicated by way of dismissing the review application filed by the petitioner was rejected which was so filed to review the aforementioned resolution of the Government as contained in Memo No. 2906 dated 01.03.2018.*
- III. *For issuance of writ in the nature of certiorari to quash the enquiry report dated 31.07.2017 communicated vide letter No. 344 dated 01.08.2017 addressed to the Principal Secretary of the Department whereby and whereunder five charges out of eight charges have been*



said to be proved against the petitioner in the alleged Departmental Proceeding No. 24/09 said to have been initiated against the petitioner holding it perfunctory and bearing injuries.

IV. *For issuance of a consequential writ in the nature of mandamus commanding and directing the respondents not to give effect to the impugned order in any manner save and except permissible under the law and to give all consequential benefits to the petitioner arising out of the instant transactions.*

V. *For issuance of any other appropriate writ/writs, direction/directions, order/orders for which the petitioner may be found legally entitled to.”*

Brief facts of the case are that while the petitioner was posted as Block Development Officer, Rajpur, District Magistrate, Buxar vide its letter No. 1072 dated 07.05.2003 stood prapatra ‘K’ against the petitioner’s absence from the duty/headquarter. An enquiry was held and after considering the show-cause filed by the petitioner, charges were found proved. Later, a second show-cause notice was issued and after considering the same, order of punishment as contained in memo No. 2906 dated 01.03.2018 was passed against the



petitioner. Aggrieved by the order of punishment petitioner moved before the reviewing authority which was also rejected vide memo No.10617 dated 07.08.2018.

Several grounds have been raised on behalf of the petitioner to assail the order of punishment. One of the grounds is to the effect that order of punishment is a non-speaking order which is in violation of principle of natural justice. He submits that order imposing punishment does not disclose at all any application of mind as to why the petitioner's writ petition against the finding recorded by the enquiry officer ought to have been accepted. It is mandatory for the disciplinary authority to deal with the explanation filed by the delinquent while exercising power under Rule 19 of Bihar CCA Rules, 2005. Non-compliance of it will result into violation of principle of natural justice and breach of statutory provision itself. In this connection, he places reliance upon **2014 (1) PLJR 532 (Shekhar Chandra Verma v. State of Bihar and Ors)**.

Per contra, learned counsel for the State submits that while the petitioner was posted as Block Development Officer, Rajpur (Buxar), the District Magistrate, Buxar vide letter No. 1072 dated 07.05.2003 sent against the petitioner alleging therein regarding absence from duty/headquarter. The matter



was examined and with a copy of memo of chargesheet, the petitioner was given opportunity vide letter No. 3385 dated 05.05.2004. After considering the enquiry report and explanation submitted by the petitioner, the order of punishment was passed. There is no illegality or infirmity in the impugned order and the same does not deserve to be interfered with by this Court.

In the present case, no reason has been disclosed while inflicting punishment on the petitioner as to why and on what ground the facts mentioned by the petitioner in his defence were rejected. It has been merely mentioned in the impugned order that no new fact was disclosed by the petitioner in his reply to the show-cause notice. Order of removal must be a speaking order and must contain reasons for arriving at a conclusion. Failure to do so vitiates the order.

Accordingly, impugned orders contained in memo No. 2906 dated 01.03.2018, memo No. 10617 dated 07.08.2018 and memo No. 2906 dated 01.03.2018 are hereby, quashed and set aside. As the impugned orders are quashed on the ground of procedural lapses, respondents are at liberty to proceed afresh against the petitioner from the stage of second show cause notice.



The writ application is, accordingly, allowed.

(Prabhat Kumar Singh, J)

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