

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4314 of 2022

=====

Priyadarshi Manoj Kumar Son of Gulab Chand Resident of Village- Jamuni Chak, P.O.- Barh (R.S.), P.S.- Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Water Resources Department, Bihar, Patna.
3. The Joint Secretary, Water Resources Department, Government of Bihar, Patna-cum-Enquiry Officer-cum-Enquiry Officer.
4. The Additional Secretary, Water Resources Department, Bihar, Patna.
5. The Engineer-in-Chief, Water Resources Department, (Headquarter), Government of Bihar, Patna.
6. The Chief Engineer, Flood Control and Drainage, Water Resources Department, Muzaffarpur.
7. The Superintending Engineer, Flood Control Circle, Sitamarhi.
8. The Executive Engineer, Flood Control Planning and Monitoring Division, 18, Water Resources Department, Patna-cum-Presenting Officer.
9. The Executive Engineer, Bagmati Division, Runni Saidpur, Sitamarhi.
10. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Indu Bhushan, Adv.
For the State	:	Mr.Vikash Kumar, SC-11
		Mr.Sriram Krishna, AC to SC-11
For the B.P.S.C.	:	Mr.Sanjay Pandey, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 29-11-2023

1. The present writ petition has been filed seeking quashing of the order of punishment dated 25.06.2019, passed by the Additional Secretary, Water Resources Department, Bihar, Patna i.e. the respondent no. 4, whereby and whereunder the petitioner has been inflicted with the penalty of withholding



of eight annual increments with cumulative effect. The petitioner has also prayed for quashing of the order dated 21.07.2020, passed by the Deputy Secretary to the Government, Water Resources Department, Government of Bihar, Patna, whereby and whereunder the Revision Petition, filed by the petitioner has been rejected.

2. The brief facts of the case are that the petitioner was appointed on 06.03.2014 on the post of Assistant Engineer, in the Water Resources Department, Government of Bihar, Patna and while he was posted at Bagmati Division, Benibad as Assistant Engineer, he was put under suspension vide memo dated 14.09.2017, whereafter a departmental proceeding was initiated against the petitioner vide memo dated 20.09.2017, on the allegation that on 17.08.2017, despite being directed by the Chief Engineer, Flood Control and Water Resources, Mazaffarpur to reach at the place where breach had taken place, the petitioner did not reach there and instead switched off his mobile, whereafter he left on medical leave on the same day without the leave being sanctioned. The Inquiry Officer had then conducted the enquiry proceedings and submitted his Inquiry Report dated 09.05.2018, finding all the three charges to have been proved against the petitioner, whereafter the Disciplinary



Authority had issued a Second Show-cause Notice dated 11.05.2018, to which the petitioner had filed a reply dated 26.06.2018 and then the impugned order of punishment dated 25.06.2019 has been passed by the respondent no.4, inflicting the punishment of stoppage of eight annual increments with cumulative effect. The petitioner had then challenged the said order dated 25.06.2019, by filing a Review Petition on 06.08.2019, however, the same has also stood rejected by the impugned order dated 21.07.2020.

3. The learned counsel for the petitioner has contended that the departmental proceeding has not been conducted as per Rule 17(4) of the Bihar Civil Servant (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as the 'Rules, 2005) and further the memo of charges framed in *Praptra (Ka)* has not been framed as per Rule 17(3)(b) of the Rules, 2005 apart from the fact that neither the written statement filed by the petitioner, before the Inquiry Officer, has been considered nor his reply to the second show-cause notice has been considered, besides his Review Petition having also not been considered in its right earnest. Nonetheless, it is contended that even accepting for a moment that there is no irregularity in the conduct of Disciplinary proceedings, though denied, the punishment



inflicted upon the petitioner is shockingly disproportionate to the gravity of the charges alleged and proved qua the petitioner, hence at least the Disciplinary Authority is required to reconsider the quantum of punishment inflicted upon the petitioner.

4. Per contra, though the learned counsel for the respondent-State has submitted that since there is no procedural irregularity in conduct of the disciplinary proceedings qua the petitioner, this Court would not sit in appeal and re-appreciate the evidence, hence no interference is warranted in the present case but he has not been able to defend the order of punishment dated 25.06.2019, as far as the quantum of punishment is concerned.

5. Having regard to the facts and circumstances of the case and considering the submissions made by the learned counsel for the parties, though this Court finds that the disciplinary proceedings have been conducted as per the Rules, 2005, nonetheless, it finds that the punishment inflicted upon the petitioner i.e. stoppage of eight annual increments with cumulative effect, vide order dated 25.06.2019, is shockingly disproportionate to the gravity of the charges levelled against the petitioner, which has been passed without considering the



contentions raised by the petitioner to the effect that firstly he had gone to the place where the alleged breach had taken place whereafter, he had proceeded on leave for treatment, since he was seriously ill, after submitting his leave application and secondly, no breach or erosion had taken place in the area where the petitioner was then posted apart from the fact that there has been no occasion in the long past service career of the petitioner indicating commission of either irregularity or misconduct by him, hence these aspects are required to be examined afresh by the disciplinary authority. Reference in this connection be had to the judgment rendered by the Hon'ble Apex Court in the case of **B.C. Chaturvedi v. Union of India**, reported in (1995) 6 SCC 749, the one rendered in the case of **Union of India v. G. Ganayutham**, reported in (1997) 7 SCC 463 and the one rendered in the case of **Kailash Nath Gupta v. Enquiry Officer**, reported in (2003) 9 SCC 480.

6. Having regard to the facts and circumstances of the case, considering the materials available on record and for the reasons mentioned hereinabove as also in view of the law laid down by the Hon'ble Apex Court in a catena of decisions, as aforesaid, I deem it fit and proper to quash the impugned order of punishment dated 25.06.2019, passed by the respondent no.4,



as also the order on review dated 21.07.2020, passed by the Deputy Secretary to the Government, Water Resources Department, Government of Bihar, Patna, as far as penalty of stoppage of eight annual increments with cumulative effect has been inflicted upon the petitioner and remit the matter back to the disciplinary authority i.e. the respondent no.4, to reconsider the quantum of punishment inflicted upon the petitioner and pass appropriate orders, after discussing the contentions raised by the petitioner and taking into account the aforesaid observations of this Court, within a period of four weeks of receipt/production of a copy of this order.

7. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

sonal/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	20.12.2023
Transmission Date	NA

