

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8174 of 2016

Sanjay Kumar, Son of Late Ram Swaroop Sharma, Resident of Plot No. 112,
Road, No. 21, Sri Krishna Nagar, P.O. G.P.O. P.S.- Buddha, Colony, District-
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Agriculture Production Commissioner, New Secretariat, Patna, Bihar.
3. The Principal Secretary, New Secretariat, Patna, Bihar.
4. The Secretary, Department, of Agriculture, Government of Bihar, New Secretariat, Patna.
5. The Director Agriculture Bihar, Patna.
6. The Joint Agriculture Director Agronomy Saran Division, Chapra.
7. The District Agriculture Officer, Saran, Chapra
8. The Sub Divisional Agriculture Officer, Saran, Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra
with: Manini Jaiswal
and Ankita Kumar

For the Respondent/s : Mr. Kumar Pankaj, AC to SC-5

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 12-01-2023 By this writ petition the petitioner seeks following
reliefs:-

(i) For quashing the order contained in Memo No. 298
dated 18.03.2016 issued under the signature of respondent Joint
Director, whereby and where under the suspension of the
petitioner has been revoked and three punishments has been
awarded which are as follows:-

a. Rs. 19650/- would be recovered from the
salary of the petitioner because of the revenue
loss.



b. One increment would be withheld with cumulative effect.

c. The petitioner would not get any salary except the subsistence allowance during the suspension period from 31.01.2014 to 18.03.2016.

Short facts of the case are as follows:

While the petitioner was posted as Farm Assistant in the office of respondent No. 8, vide order dated 31.01.2014 the petitioner was put under suspension on the ground of negligence and thereafter, a proceeding was initiated against him and after considering the show-cause filed by the petitioner, conducting officer submitted enquiry report with a request to exonerate the petitioner from all the charges leveled against him. Vide Memo No. 255 dated 13.02.2014, a fresh conducting officer was appointed to conduct the enquiry against the petitioner, who also after considering the show-cause filed by the petitioner did not found the charges against the petitioner proved. Thereafter, the second show-cause notice was issued and after considering the reply to the second show-cause final order of punishment (Annexure-12) was passed.

It is submitted on behalf of the petitioner that the charges leveled against the petitioner were not found proved during enquiry. Hence, it was incumbent upon the Disciplinary



authority to issue notice of disagreement along with a copy of enquiry report. But in this case no notice of disagreement was issued to the petitioner. Secondly, he submits that order of punishment has been passed without considering the reply to the second show-cause notice filed by the petitioner. There is no discussion in the impugned order as to why reply to the second show-cause notice was not found satisfactory. Thus, the impugned order is in violation of principle of natural justice and the disciplinary rules. In support of his statement counsel for the petitioner has placed reliance upon Punjab National Bank v. Kunj Behari Misra AIR 1998 SC 2713 and Managing Director ECIL. v. B. Karunakar 1994 SC 1074.

Per contra, counsel for the State submits that impugned order has been passed after following due procedure of law. He further submits that after considering reply to the enquiry report and show-cause filed by the petitioner, order has been passed and as such the order of punishment does not require any interference by the petitioner.

It is an admitted position that both the enquiry officers exonerated the petitioner from charges. In that case it was incumbent upon the Disciplinary authority to issue the notice of disagreement at the stage of issuance of second show-cause notice which has not been done in this case. No notice of



disagreement was served to the petitioner and simply a second show-cause notice was issued which is in violation of law laid down by the Apex Court in case of B. Karunakar (supra) and secondly order of punishment has been passed without consideration of reply to the second show-cause filed by the petitioner which is mechanical in nature. It does not disclose any application of mind as to why reply to the second show-cause notice was not acceptable to the disciplinary authority. In terms of Rule 18 (4) of Bihar CCA Rules, 2005 disciplinary authority was mandatorily required to deal with the reply to the show-cause notice filed by the petitioner.

Accordingly, impugned order contained in Memo No. 298 dated 18.03.2016 is set aside.

Needless to say, the respondents shall be at liberty to move a fresh from the stage of second show-cause against the petitioner in accordance with law, if so advised.

The writ petition stands allowed.

(Prabhat Kumar Singh, J)

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