

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20246 of 2014

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Prem Kumar son of Late Ganesh Singh, Resident of Mohalla- Chalitar, Police
Station- Alamganj, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Bihar State Food and Civil Supplies Corporation through Chief of
Procurement-cum-Conducting Off Sone Bhawan, Patna
3. The Managing Director, Bihar State Food and Civil Supplies Corporation,
Sone Bhawan, Patna
4. The Principal Secretary, Food and Consumer Protection Department, Govt.
of Bihar, Patna
5. The District Manager Bihar State Food and Civil Supplies Corporation,
Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Nirmal Kumar, Adv.
For the State	:	Mr. Awanish Nandan Sinha, GP-11
For the BSFC	:	Mr. Shailendra Kumar Singh, Adv.
		Mr. Utkarsha Utpal, Adv.

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 07-10-2023

The present writ petition has been filed for quashing the
order dated 25.6.2012, passed by the Managing Director, Bihar
State Food and Civil Supplies Corporation, Patna, i.e. the
Respondent No. 3, whereby and whereunder the petitioner has
been inflicted with the punishment of proportionate recovery of
the loss, caused to the Respondent-Bihar State Food and Civil



Supplies Corporation, Patna (hereinafter referred to as “the BSFC”), as also calculation and recovery of the interest on the amount, deposited in excess with the Indian Fertilizer Corporation. The petitioner has also prayed for quashing of the order dated 20.8.2014, issued by the Principal Secretary, Food and Consumer Protection Department, Government of Bihar, Patna, i.e. the Respondent No. 4, whereby and whereunder the order of punishment dated 25.6.2012 has been affirmed.

2. The brief facts of the case, according to the petitioner, are that the petitioner was appointed as an Assistant Accountant in the Respondent-BSFC on 23.8.1975 and subsequently, he was promoted as Accountant on 7.6.1977, whereupon he finally superannuated on 31.8.2010. The petitioner is stated to have then been appointed as Accountant on contract basis for 11 months, vide office order dated 26.8.2010, issued by the Respondent No. 3, leading to him joining the office in the District of Nalanda on 1.5.2010. The petitioner was again appointed on contract basis by the Respondent-BSFC in the District of Jehanabad, where he worked up till 31.7.2011. On 28.7.2011, a memo of charge was issued to the petitioner and he was asked to submit his show cause reply with regard to the irregularities, committed by him while he was posted as



Assistant Accounts Officer in the office at district Nalanda in between 11.7.2009 to 31.8.2010, whereafter, the petitioner had submitted his reply on 16.8.2011. The Respondent-BSFC had, in the meantime, appointed a conducting officer for conducting the departmental proceeding in question against the petitioner and five other employees, vide office order dated 3.8.2011.

3. The learned counsel for the petitioner has further submitted that though the petitioner was present on each and every date, fixed by the conducting officer, in the ongoing departmental proceeding, but neither the petitioner was granted any opportunity to cross-examine the official witnesses nor any finding of the inquiry officer / conducting officer was furnished to the petitioner and instead, the impugned order of punishment dated 25.6.2012 was passed by the Respondent No. 3, which was challenged by the petitioner, by filing an appeal, however, the same has also been rejected by the impugned order dated 20.8.2014, passed by the Respondent No. 4. It is also submitted that even second show cause notice was never issued to the petitioner and the order of punishment has been passed illegally.

4. The learned counsel for the petitioner has relied on a judgment, rendered by the Hon'ble Apex Court in the case of ***Union of India & Ors. vs. Md. Ramzan Khan***, reported in AIR 1991 (SC)



471, as also upon a judgment, rendered by the Hon'ble Apex Court in the case of *Managing Director, ECIL, Hyderabad and Others vs. B. Karunakar & Others*, reported in (1993) 4 SCC 727, wherein it has been held that non-serving / non-furnishing of enquiry report upon the delinquent employee, prior to passing of the order of punishment, would amount to violation of the principles of natural justice, hence, the order of punishment would be rendered void. The learned counsel for the petitioner has also relied on a judgment, rendered by the learned Division Bench of this Court in the case of *Dinesh Prasad vs. State of Bihar & Ors.*, reported in 2006 (4) PLJR 514.

5. On the contrary, though the learned counsel for the Respondent-BSFC has not been able to defend the aforesaid irregularity in the procedure adopted by the disciplinary authority, leading to passing of the impugned order of punishment dated 25.6.2012, however, he states that the order of punishment may be quashed, but the matter be remanded back, with liberty to proceed with the enquiry from the stage of furnishing the enquiry report.

6. Having regard to the aforesaid facts and circumstances of the case, this Court finds that admittedly, before passing the order of punishment dated 25.6.2012, neither the enquiry report



was furnished to the petitioner nor he was granted an opportunity to make representation to the disciplinary authority against the findings, recorded in the enquiry report, prior to passing of the order of punishment, resulting in breach of the principles of natural justice, consequently the order of punishment dated 25.6.2012, passed by the Respondent No. 3, as also the appellate order dated 20.8.2014, passed by the Respondent No. 4, cannot be sustained in the eyes of law, hence, are quashed. Nonetheless, liberty is granted to the Respondents to act in accordance with the law laid down by the Hon'ble Apex Court in the case of *B. Karunakar & Others* (supra).

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	18.10.2023
Transmission Date	NA

