

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14732 of 2013

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Bishwanath Prasad Son Of Sri Ram Chandra Ram Resident Of Mohalla C/O
Shiv Dhyan Singh, Sundri Sadan, 1st Floor, Jagat Narayan Road, Patna, P.S.
Kadamkuan, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Home Department, Govt. Of Bihar, Patna
3. The Deputy Secretary, Home Department, Govt. Of Bihar, Patna
4. The I.G. Prison, Govt. Of Bihar, Patna
5. The Jail Superintendent, Mandal Kara, Samastipur, District- Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanket, Adv.

For the Respondent/s : Mr. Bijay Kumar Sinha, AC to AAG 1

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

- 3 30-01-2023 1. The petitioner by way of this writ petition assails the order, whereby fifty per cent pension has been withheld by way of punishment. Learned counsel submits that the petitioner attained superannuation on 30th September 2008. While he was in service, he had been suspended in relation to another case and he was directed to remain at the headquarters during the suspension period. He was not served copy of the charge memo which is stated to have been issued on 19th September 2006. Learned counsel submits that the entire enquiry was conducted behind his back and he was not given any notice by the enquiry officer nor he was informed about the pendency of the enquiry.



He retired, whereafter as has come on record, an order was passed continuing the enquiry even after retirement. Learned counsel submits that while the petitioner's address was known to the respondent as he had attained superannuation, no information was given to him at his residential address and therefore, he was prevented to put up his defence. Learned counsel submits that a press notice was issued on 10th December 2009 informing about the enquiry report having been filed, wherein all the charges have been held to be proved against him. On having come to know about the press notification, the petitioner appeared before the authorities and requested for one month time to file his reply to the second show cause. However, without waiting for his reply, the impugned order was passed stopping fifty per cent of his pension.

2. Learned counsel further submits that the documents which have been brought on record by the respondents reflect that while the charge-sheet issued to the petitioner was in relation to eight charges, two more charges have been added by the enquiry officer and the petitioner has been held guilty of ten charges. Thus, the enquiry proceedings are vitiated in law.

3. Learned counsel submits that there was no occasion to forfeit fifty per cent of the pension of the petitioner in an ex-



parte enquiry.

4. Learned counsel for the State submits that in terms of **Section 43(b)** of the **Bihar Pension Rules**, enquiry was continued against the petitioner even after retirement and before passing punishment order, the proposed punishment was sent to the Public Service Commission which has also given its approval. Learned counsel submits that the enquiry report was not contested and the petitioner was provided all the documents after he appeared on the basis of the press notice. But inspite thereto, the petitioner may not submit his reply and has not denied the charges. The entire proceedings have been conducted in a fair and proper manner and in terms of the rules governing the same. The petitioner has been held guilty of all the charges by the enquiry officer and accordingly his fifty per cent pension has been withheld and therefore, he prays that that no interference be made by the Court in the Departmental proceedings order passed.

5. I have considered the submission. This Court finds that the petitioner admittedly was at the headquarters and it is very difficult for this Court to accept contention of the petitioner that he had no knowledge about the departmental proceedings initiated against him. From the allegations itself, it is apparent



that the petitioner has been avoiding to perform his duties. That apart on a sudden inspection, it was found that the material was found at the which was not allowed to be kept. There are two charge-sheets. One is of 19th September 2006, wherein there are two allegations and the other dated 05.08.2006 which mentions eight charges. The enquiry officer was appointed, who conducted enquiry, but the petitioner did not participate in the enquiry, whereafter he retired and in terms of **Rule 43(b)**, the enquiry was directed to be continued after retirement. The petitioner did not participate in the proceedings and ultimately decision was taken to issue a fresh notice asking him to appear and submit his reply to the enquiry report. As has come on record, the petitioner appeared on 11.01.2010 and received all the documents whereafter, he sought time to file his reply to the second show cause on 27.01.2010 but he did not file any reply. After four months, the proposed punishment order was sent to B.P.S.C. on 20th May 2010 and the P.S.C. approved the purposed punishment of stopping of fifty per cent pension after considering the entire record vide order dated 30th November 2010.

Thus, this Court is satisfied that the petitioner has deliberately and knowingly not submitted any reply to the



charges or to the enquiry report. In spite of press publication, and appearing before the authorities having received all the documents he has not chosen to file reply for more than one year thereafter. The punishment order was passed on 30th March 2011. In these circumstances, it cannot be said that the petitioner was not given fair and proper opportunity by the respondents. All the charges have been held to be proved against the petitioner to which there is no reply.

6. Keeping in view thereto, no interference is warranted. The writ petition is accordingly dismissed.

(Sanjeev Prakash Sharma, J)

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