

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18791 of 2013

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Suresh Prasad Singh Son Of Krishna Singh Presently Posted To The Post Of Clerk, Block- Silao District Nalanda, Resident Of Village P.O. Tiuri, P.S. Manpur, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Nalanda At Bihar Sharif
3. The Additional Collector, Departmental Enquiry Officer, Nalanda At Bihar Sharif
4. The Deputy Collector Estt. Nalanda Collectorate, Nalanda At Bihar Sharif
5. The Block Development Officer, Tharthari Nalanda
6. The Block Development Officer Cum Presenting Officer, Block Tharthari Nalanda
7. The Block Development Officer, Silao Nalanda

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar, Adv.
For the Respondent/s : Mr. Vijay Kumar Verma, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 23-01-2023

1. Heard the parties.

2. The petitioner by way of this writ petition assails the order passed by the respondents, whereby after conducting detailed enquiry, he was punished with the minor penalty of stopping of three grade increments without cumulative effect.

3. Learned counsel submits that the charge-sheet levelled against the petitioner initially was of having committed embezzlement of a sum of Rs. 16,809.58/- as first charge and second charge levelled against him was of not maintaining



accounts books properly and having not kept the Cash Register in a proper form. The Enquiry Officer conducted the enquiry and found charge no. 1 of embezzlement not proved against the petitioner. While, it observed the petitioner to have shown carelessness in maintaining the general Cash Register during his period of duty.

4. The petitioner submitted his objections to the enquiry report pointing out that the Cash Register was properly maintained. However, it is submitted that the Disciplinary Authority has failed to take notice of the objections raised by the petitioner and has passed the order of punishment in a casual manner. It is further stated that the punishment of stopping of three grade increments, without cumulative effect, could not have been actually passed, since the petitioner was due to retire in 2015.

5. Per contra, learned counsel appearing for the State has submitted that fair and proper opportunity was granted to the petitioner to defend his case before the Enquiry Officer and copy of enquiry report was also made available to him, to which he filed his reply and after considering his reply, the Disciplinary Authority has passed the order after examining the reply filed by the petitioner. The arguments regarding the



petitioner being retired in 2015, has not been taken in the writ petition.

6. I have considered the submission, the Enquiry Officer found charge no. 1 as not proved against the petitioner, but the charge no. 2 has been held to be proved and it has been found that the petitioner did not maintain the Cash Register and Accounts in a proper manner i.e. column-wise or Bank-wise, details were not mentioned. The petitioner has filed his reply to the enquiry report and for charge no. 2, he has stated that the record of the year 2007-2008 was handed over to him in 2011. He was busy as were in maintaining other records and there was no assistance from the Head Accountant. Thus, he has admitted that there has been slackness in maintaining the Accounts and for the said delinquency, a minor penalty has been awarded to him.

7. This Court in writ petition does not act as an appellate body and it only would examine the decision making process. If the same is found to be in accordance with law and as per the Rules, no interference is warranted as held in the case of **Central Industrial Security Force and Ors. Vrs. Abrar Ali** as reported in **2017 (4) SCC 507:-**

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has



acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

(a) the enquiry is held by a competent authority;

(b) the enquiry is held according to the procedure prescribed in that behalf;

(c) there is violation of the principles of natural justice in conducting the proceedings;

(d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;

(e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

(f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;

(g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;

(h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;



(i) the finding of fact is based on no evidence.

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

(i) reappreciate the evidence;

(ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;

(iii) go into the adequacy of the evidence;

(iv) go into the reliability of the evidence;

(v) interfere, if there be some legal evidence on which findings can be based.

(vi) correct the error of fact however grave it may appear to be;

(vii) go into the proportionality of punishment unless it shocks its conscience.”

8. In view of above, this writ petition is accordingly dismissed. No costs.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 29

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