

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18855 of 2013

=====

Kamlesh Kumar Sinha Son Of Late Brij Kishore Prasad Resident Of Mohalla-
Sumitra Devi Lane, Zila School Road, P.O. and District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Purnea Division, Purnea
3. The District Magistrate Cum Collector, Purnea
4. The Establishment Deputy Collector, Purnea
5. The Circle Officer, Circle Amour, Dist.- Purnea
6. The Circle Officer, Circle Kritiyanand Nagar, District- Purnea
7. Deputy Collector Land Reforms-Cum-Conducting Officer, Sadar Purnea
8. The Circle Officer, Rupauli, District- Purnea

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	None
For the State	:	Mr. Yogendra Pd. Sinha No.1, Adv. With Mr. Nirmal Kumar Sinha No.-3, AC to AAG-7

=====

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

ORAL ORDER

- 2 23-01-2023
1. No one appears for the petitioner.
 2. By way of this writ petition the petitioner assails the order by which he has been punished for awarding of two grade increments.
 3. It is noticed that an enquiry was initiated against the petitioner on the basis of a criminal case registered against him under Sections 406, 409, 411, 120B of the I.P.C., wherein he remained in Jail from 01.06.1992 to 06.06.1992. Out of four



charges levelled against the petitioner, charge no. 1 was found to be proved, while charge nos. 2, 3 and 4 were not found to be proved. The charge no.1 was of having involved in black-marketing of relief Wheat of the Government. The enquiry report was made available to the petitioner, who submitted his reply to the enquiry report, whereafter the Disciplinary Authority proceeded and found the charge no. 1 proved as against him and stopped two grade increments with cumulative effect and order was also passed of not releasing any salary, except the subsistence allowance for the period during which he remained in Jail. The petitioner was directed to deposit 50% of the amount of Wheat in installments from his salary.

4. Learned counsel appearing for the respondents has supported the order and submits that no illegality in departmental proceeding has been conducted. The petitioner was given due fair opportunity to defend his case and there has been complete transparency in the departmental proceedings. The decision of the Disciplinary Authority or the Appellate Authority does not warrant any interference.

4. I have considered the submissions, keeping in view the limited scope of this Court in interference with the departmental proceedings, the Supreme Court in **Union of India**



& Ors. Vrs. P. Gunasekaran as reported in 2015 (2) SCC 610

has held as under:-

“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.”

6. Keeping in view of the aforesaid limited scope of interference, this Court does not find any of the aforesaid grounds in the present case for interference.



7. The writ petition is accordingly dismissed. No costs.

(Sanjeev Prakash Sharma, J)

Pravinkumar/-

Item No. 34

U			
---	--	--	--

