

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3057 of 2021

=====

Doma Singh Son of Late Ramchela Singh Resident of Village- Harbhog, P.S.-
Adhaura, District- Kaimur at Bhabua.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Chief Secretary, Government of Bihar,
Patna.
2. The Commissioner, Patna Division Patna
3. The Collector, Kaimur at Bhabua Bhabua
4. The Additional Collector, Kaimur at Bhabua Bhabua
5. The Senior Deputy Collector, Revenue, Kaimur at Bhabua Kaimur at
Bhabua
6. The District Supply Officer-cum-Conducting Officer, Kaimur at Bhabua
Kaimur at Bhabua
7. The Circle Officer, Bhabua under District of Kaimur at Bhabua Kaimur at
Bhabua
8. The Circle Officer, Adhaura under District of Kaimur at Bhabua Kaimur at
Bhabua
9. The Treasury Officer, Kaimur at Bhabua Kaimur at Bhabua

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Nirbhay Prashant
For the Respondent/s : Mr.Lalit Kishore (Ag)

=====

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

8 12-01-2023 This writ application has been filed for setting aside
the order of punishment by which:

I) to issue appropriate, rule/rules, direction/directions,
writ/writs in the nature of Certiorari and be placed to quash
the order dated 27.06.2017 (Annexure-13) passed by the
Divisional Commissioner, Patna Division, Patna (Respondent
No. 2) in Serice Appeal No. 315 of 2014 whereby and where



under he has been pleased to confirm the order passed in Memo No. 2881 dated 07.12.2013 (Annexure-12) under the signatures of the Collector, Kaimur at Bhabua (Respondent No. 3); the Additional Collector, Kaimur at Bhabua (Respondent No. 4) and the Senior Deputy Collector, Revenue, Kaimur at Bhabua (Respondent No. 5) jointly, whereby the Petitioner was relieved from departmental proceeding by giving the following punishment.

1) 5% pension is deducted for alleged proved Charge No. 1;

2) The petitioner has been exonerated from charge Nos. 2 to 9 due to non-availability of evidences by the office due to long duration;

3) The suspension period/dismissal period is regulated for retirement benefits and nothing will be payable in the suspension period except the living allowance.;

4) The dismissal period / dismissal period is regulated on the principle of No Work No Pay assuming no salary.

II) And consequent upon the quashing of the said order direction/directions be given to the respondents to pay the retirement benefits (only GPF and GI has been paid) and other consequential benefits with interest to the petitioner, with



further direction to pay the due amount of salary during the period the petitioner was put under suspension.

III) And any other relief or reliefs for which the petitioner be found entitled in law be granted to him.

Learned counsel for the petitioner makes a short submission to the effect that the order of punishment annexure 12 to the writ application vide memo no. 2881 dated 07.12.2013 has been passed in violation of principle of natural justice. It is a non-speaking order and is against the statutory provision of Disciplinary rules. The order of punishment does not disclose the application of mind at all as to why reply to the second show cause filed by the petitioner was not found satisfactory. There was no discussion of the reply filed by the petitioner in the impugned order.

Learned counsel on behalf of the state, in reply however submits that the impugned order has been passed after taking into consideration the enquiry report, materials available on record and the show cause filed by the petitioner. In other words, he submits that after following due process of law, the impugned order has been passed.



However, in the entire counter affidavit there is no rebuttal of contention of petitioner that the impugned order has been passed without considering the second show cause reply filed by the petitioner.

From bare perusal of the impugned order, it is manifest that the same has been passed without considering the defence of the petitioner. The plea taken by the petitioner in his defence has not been taken into consideration while passing the impugned order.

The contention of the petitioner is correct that the impugned order is in violation of principle of natural justice as well of Disciplinary rules.

The writ petition is allowed. Matter is remitted for its conclusion in accordance with law after hearing the parties from the stage of second show cause.

(Prabhat Kumar Singh, J)

asmit/-

U			
---	--	--	--

