

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9923 of 2012

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Binod Kumar S/O Munar Kamat R/O At and P.O.- Mangrauni, Police Station-
Rajnagar, District- Madhubani

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary General Administration Department, Government Of Bihar, Patna
3. The Deputy Secretary General Administration Department, Government Of Bihar, Patna
4. The Divisional Commissioner Tirhut Division, Muzaffarpur, At and P.O.- Muzaffarpur
5. The District Magistrate, Darbhanga, At and P.O.- Darbhanga

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Alok Kumar No. 1, Advocate
For the Respondent/s	:	Mr. Manish Kumar, GP 4
		Mr. Ajay Kumar, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 01-12-2023

Heard Mr. Alok Kumar No. 1, learned counsel for the petitioner and Mr. Manish Kumar, GP 4 assisted by Mr. Ajay Kumar, AC to GP 4 for the State.

2. The present writ petition has been filed for quashing the punishment order bearing memo no. 2535 dated 04.03.2008. By way of aforesaid resolution, two punishments have been inflicted upon the petitioner i.e. (i) censor and (ii) withholding of two increments with cumulative effect.

3. Learned counsel for the petitioner submits that the enquiry officer has exonerated the petitioner from all the



charges but the disciplinary authority without giving any notice/opportunity of show cause to the petitioner on the point of differences from the enquiry officer has inflicted the punishment to the petitioner.

4. The petitioner is the member of Bihar Administrative Service who was selected as Deputy Collector in 36th Batch of Combined Competitive Examination conducted by the Bihar Public Service Commission and after the selection process the petitioner was appointed on 12.06.1992 and joined the post on 12.06.1992. When the petitioner was posted as Block Development Officer, Patori, Samastipur, he was taken into custody on 28.11.2006 in connection with Jamalpur P.S. Case No. 13 of 2003 under Sections 420 and 409 of the Indian Penal Code on the charge of misappropriation of fund during the posting of petitioner as Block Development Officer in Kiratpur block, Darbhanga District.

5. The General Administration Department, Government of Bihar, Patna vide resolution bearing Memo No. 318 dated 08.01.2007 placed the petitioner under suspension in terms of Rule 9(1)(Ga) of the Bihar Government Servant (Classification, Control & Appeal) Rules 2005. The suspension of the petitioner was contemplation of departmental proceeding and the



departmental proceeding was initiated against the petitioner by serving a copy of charge sheet by appointing the Divisional Commissioner, Tirhut Division, Muzaffarpur as enquiry officer and the District Magistrate, Darbhanga as representing officer and the copy of the charge sheet dated 21.02.2007 was also served to the petitioner.

6. The petitioner has filed his show cause before the enquiry officer i.e. Divisional Commissioner, Tirhut Division, Muzaffarpur along with all supporting documents. The enquiry officer after considering the show cause reply filed by the petitioner and also after taking into consideration the materials available on record give clean chit to the petitioner by exonerating the petitioner from all charges vide its enquiry report dated 20.12.2007.

7. Learned counsel for the petitioner further submits that the disciplinary authority after receipt of the enquiry report in which charges against the petitioner were not found to be true, without giving any show cause notice on the point of differences from the enquiry officer, inflicted two punishments upon the petitioner i.e. censor and withholding of two increments without cumulative effect and the same was informed to the petitioner vide memo no. 2535 dated



04.03.2008. He further submits that in view of the aforesaid, the impugned order of punishment is violation of principle of natural justice and the disciplinary authority while differing with the report of the enquiry report has not given any opportunity of hearing to the petitioner on the point of differences from the report of the enquiry officer.

8. The petitioner has filed an appeal before Principal Secretary, General Administrative Department, Bihar, Patna on 11.03.2008 against the order of punishment which is still pending.

9. Learned counsel appearing on behalf of the State referring to the counter affidavit submits that from bare perusal of the form “K” which was issued against the petitioner on the charge that the petitioner has committed irregularities in construction of the building of Primary School, Darbhanga and defalcated Rs. 3,99,767.40/- and after enquiry the enquiry officer has submitted his report vide letter no. 6228 dated 26.12.2007 and bare perusal of the enquiry report it is apparent that huge amount was sanctioned as advance to the staff and the petitioner did not try to recover the balance amount and ultimately the department has further been emburdened financially for lodging a case against the concerned person



under public demand recovery act for recovery of the government money. And from the proceeding the petitioner has himself accepted that the executing agent was appointed against the guidance of the department.

10. It appears from the aforesaid that the appeal of the petitioner is still pending since 2008 for consideration before the Principal Secretary, General Administrative Department, Government of Bihar, Patna i.e. Respondent no. 2.

11. In view of the aforesaid, Respondent no. 2 is directed to dispose of the appeal of the petitioner which was still pending since 2008 in accordance with law after giving an opportunity of hearing to the petitioner and after following the due principle of natural justice within period of 3 months from the date of receipt/production of a copy of this order of this Hon’ble Court.

12. Accordingly, this writ petition stands disposed of.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.12.2023
Transmission Date	N/A

