

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2222 of 2018

=====

Uday Pratap Singh son of Late Sidheshwar Prasad Singh, Resident of Village-
Nagwa, P.S.- Maner, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Revenue and Land Reforms, Government of Bihar, Patna.
2. The Collector, Patna.
3. The Divisional Commissioner, Patna.
4. The Additional Collector, Departmental Proceeding, Patna.
5. The Circle Officer, Ghoswari, District Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajesh Ranjan, Advocate Mr. Ratnakar Pandey, Advocate Ms. Kanika, Advocate
For the Respondent/s	:	Mr. Dhurjati Prasad, GP-14

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 22-11-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for quashing the order dated 27.06.2017 passed in Service Appeal No.604 of 2014 by the Divisional Commissioner, Patna (Annexure-9) and further for quashing the order contained in Memo No.881 dated 18.03.2014 passed by respondent No.2 in the Departmental Proceeding by which the petitioner's services have been dismissed. The subsequent prayer has been made for



quashing the orders dated 27.06.2017 and 18.03.2014.

3. Learned counsel for the petitioner submits that the petitioner had joined service on 09.03.1996 as Rajaswa Karmachari and posted on the same post in Ghoswari Circle. During his service on 12.09.2012, Vigilance P.S. Case No.62 of 2012 under Sections 7, 13(2) and 13(1)(d) of the Prevention of Corruption Act has been lodged against him in which petitioner was arrested under a trap and Rs.4500/- received from his possession. Counsel submits that the petitioner was suspended upon his arrest and subsequently granted bail by the order passed by this Hon'ble Court on 04.04.2013 passed in Cr. Misc. No.50336 of 2012. He was permitted to join the services on 10.04.2013 and vide Annexure-2, i.e., Memo No.3207 dated 16.09.2013, 'Prapatra Ka' was issued to him. Counsel for the petitioner submits that upon receiving 'Prapatra Ka' by letter dated 16.11.2013 he has demanded the documents relating to 'Prapatra Ka' so that he may file necessary reply in the said departmental proceeding. Counsel submits that instead of providing the document the inquiry officer had directed him to approach before the Vigilance Department. Counsel has taken special plea that non-providing the documents on the basis of which charge has to be proved is basically gross violation of



Rule 17(11)(iii) of the Bihar Government Servants (C.C.A.) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005'. Counsel further submits that in the enquiry report the charge was found to be proved against him. Counsel submits that the second show cause was also issued against him vide letter dated 20.02.2014 (Annexure-6) of which the petitioner was directed to file reply but in dismissal order dated 18.03.2014 none of his points were discussed. Counsel further submits that he has preferred Service Appeal No.604 of 2014 against the aforesaid order before the appellate authority i.e., respondent No.3 ,which was dismissed by order dated 27.06.2017 and thereafter the petitioner was removed from his service. Counsel for the petitioner has taken the plea that there is gross violation of CCA Rules, 2005 as he has annexed the entire order sheets of the departmental proceeding by which a direction was given by the Enquiry Officer to obtain the documents from the Vigilance Department. Counsel for the petitioner further submits that in the present case neither a single witness have been examined nor any documents have been provided and there is a gross violation of the natural justice as well as Rules laid down under the CCA Rules, 2005 have been made.

4. Learned counsel for the State on the other



hand submits that from the order sheets of the departmental proceeding, it appears that the allegation made against the petitioner is appeared to be true but he submits that no prejudice have been caused to him due to the reason that the documents on which the petitioner has to rely that is the documents relating to Vigilance case are already in possession of the petitioner and he has annexed those documents in the writ petition. He further submits that in the departmental proceeding the enquiry officer had directed him to obtain the documents from the Vigilance Department on which the petitioner has not make any objection and, therefore, no prejudice has been caused to the petitioner due to non-production of those documents before the departmental proceeding to the petitioner.

5. Upon bare perusal of the documents, i.e., charge memo, enquiry report, the order sheets and the appellate order, it transpires to this Court that the charge memo does not contain name of any witness and the documents on the basis of which the four charges as lodged in 'Prapatra Ka' has to be proved. It also transpires to this Court by the entire order sheets of the departmental proceeding that any witnesses have not been examined. It also transpires to this Court that none of the documents were provided to the petitioner to prove the charges



of the departmental proceeding to the petitioner.

6. The submissions of the counsel for the petitioner that the points which have been raised in his show-cause has not been considered at all which is also clear from the order passed by the disciplinary authority as well as by the appellate order.

7. Subsequently, counsel for the respondent relied on the judgment in the case of **Vikramaditya Singh Vs. The State of Bihar and Others** reported in **2020(1) PLJR 95**, para-17 is reproduced hereunder:

*“17. In **Roop Singh Negi Vs. Punjab National Bank** reported {(2009) 2 SCC 570}, emphasis has been laid on the proof of the material before the Enquiry Officer as the Enquiry Officer performs a quasi-judicial function. For providing charge, it is not necessary that any evidence be compulsorily led. If the materials are available which could be the basis for coming to a definite conclusion, then only because witnesses were not examined, the entire enquiry report could not be thrown out as being bad in facts and law.”*

8. Upon going through the said paragraph, it is



crystal clear to the Court that proving of evidence is not necessary in the departmental proceeding as it is a quasi judicial Court, but even then as per the ratio discussed in the above case, there must be materials on record but here in the present case it transpires to this Court that what are those materials has not been expressly discussed as well as not supplied to the petitioner due to which there is lack of opportunity of self-defence to the petitioner which is gross violation of natural justice.

9. In this view of the matter, the order dated 27.06.2017 passed in Service Appeal No.604 of 2014 by the Divisional Commissioner, Patna, and order contained in Memo No.881 dated 18.03.2014 passed by respondent No.2 the Collector, Patna, are hereby set aside. The department shall be at liberty to proceed from the stage of 'Prapatra Ka' after providing and fulfilling all the legal criteria afresh in accordance with law.

10. Accordingly, this writ petitioner is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.11.2023
Transmission Date	

