IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1372 of 2018

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Nand Kishore Singh Son of Late Awadh Bihari Singh, Resident of Village- Singhra, P.S.- Konch, District- Gaya.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Finance Department, Old Secretariat, Govt. of Bihar, Patna.
3. The Secretary Expenditure, Finance Department, Old Secretariat, Govt. of Bihar, Patna.
4. The Addl. Secretary, Finance Department, Old Secretariat, Govt. of Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pratap Sharma, Advocate
For the Respondent/s	:	Mr.Raghwendra Kumar -Sc22
		Mr. Vikramadit AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

6 09-10-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for quashing of the Letter No. 7559 dated 19.09.2017 i.e. second show-cause but during the pendency of the writ petition, the final order has been passed vide Memo No. 1416 dated 22.02.2018 which the petitioner has challenged in I.A. No. 01 of 2022 which was allowed by order dated 30.01.2023. As such, by this writ petition, both the orders i.e. order of issuance of second show-cause and final order passed by the disciplinary authorities

are under challenge.

3. Counsel for the petitioner submits that the basis of the charge itself is bad in law and there are specific allegations in the Charge Memo that three bills i.e. 56, 57 and 58 of 2013-14 have been recovered from the table of the petitioner on the day when vigilance has raided his office which is incorrect as the vigilance, as well as the Presenting Officer, have tried to mislead the departmental proceeding that the recovery of the three bills has been made from the table of the delinquent, but this allegation is absolutely bad in law as per Annexure-21 which has been sent by the Accounts Officer of the Accountant General, Bihar, Patna by which it transpires that the said bills were already with the Accountant General Office and not been ceased by the vigilance and this fact is also apparent from the letters which have been communicated to the Superintendent of Police vide Annexure-20. Counsel for the petitioner further submits that the petitioner is completely innocent and by virtue of the entire records provided under R.T.I. on which it has come that the issuance of second show-cause is not sufficient, which the disciplinary authority varied from the report of the Enquiry Officer.

4. Counsel submits that the petitioner has moved

earlier before this Hon'ble Court in C.W.J.C. No. 13816 of 2016 in which an order was passed on 19.05.2017 by which this Hon'ble Court has directed the disciplinary authority to dispose of the disciplinary proceedings within three months from the date of receipt/communication of the order, but the said order has in much delay.

5. Counsel submits that the order passed by the disciplinary authority in Paragraph 3(III) is an absolutely unacceptable submission which is contrary to the records and differs from the statement of Annexure-21 i.e. either the bills were with the vigilance department or bills were with the A.G. Department.

6. Counsel for the State submits that it is true that the findings of the Disciplinary Authority in the office record are in favour of the petitioner, but he seeks permission from the Court to initiate the second show-cause after taking evidence.

7. After going through the records, it transpires to this Court that the findings of the disciplinary Authority in paragraph 3(iii) present in the order dated 22.02.2018 completely differ from the records, particularly from Annexure-20 and Annexure-21 by which there is no conclusiveness about the findings of the bills by the vigilance whether the bills were

recovered from the table of the petitioner or the said bills were recovered from the Office of the A.G. Department and in this background, the entire allegations made in the charge memo automatically falsify.

8. In this view of the matter, this Court is of the view that Letter No. 7559 dated 19.09.2017 i.e. second show-cause and the final order which has been passed vide Memo No. 1416 dated 20.02.2018 (Annexure 9) which the petitioner has challenged by I.A. No. 01 of 2022 are not sustainable in the eye of law and are hereby set aside.

(Dr. Anshuman, J.)

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