

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3489 of 2017

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Ram Pukar Sharma S/o Nawal Kishore Sharma, Resident of Village-
Arakadiwaria, P.S. Tekari, District-Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner, Magadh Division, Gaya.
3. The Collector, Jahanabad.
4. The Additional Collector cum Conducting Officer, Jahanabad.
5. The Block Development Officer, Hulasganj, District-Jahanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Siya Ram Shahi, Advocate
For the Respondent/s : Mr.Ram Balak Mahto- AG

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 09-02-2023

Heard Mr. Siya Ram Shahi learned counsel for
petitioner. Nobody appears on behalf of State to assist the court.

This writ petition has been filed for following
reliefs:-

(i) for issuance of an appropriate writ in
quashing the order communicated to the
petitioner vide Memo No. 1355 dated
14.11.2015 passed by the Collector,
Jehanabad whereby the petitioner has been
compulsory retired, contained in Annexure-
5.

(ii) for issuance of an appropriate writ in
quashing the order dated 03.06.2016 passed
by the Commissioner, Magadh Division,



Gaya in Service Appeal No. 223 of 2015 whereby the Appeal has been dismissed, contained in Annexure-6.

(iii) for issuance of an appropriate writ commanding the Respondents to reinstate the petitioner to the post of “Jan Sevak” for the rest of his service with all consequential benefits.

The brief facts giving rise to this writ application are that while the petitioner was posted as “Jan Sewak”, Block Office-Hulasganj, Jehanabad. He was placed under suspension by Respondent no. 3 vide Memo No. 1741 dated 23.12.2013 on the allegation of irregularity in distribution of fund in “Mukhya Mantri Kanya Vivah Yojna”. A departmental proceeding was initiated on 18.01.2014. After submission of enquiry report, order of compulsory retirement was passed, thereafter, petitioner preferred appeal which was dismissed vide order dated 03.06.2016.

The short point raised on behalf of petitioner to assail the order of compulsory retirement as contained in Annexure-5 is to the effect that in this case though presenting officer was appointed, but he did not chose to play any role. No evidence was led on behalf of presenting officer. Secondly, without considering the second show cause, the Collector



Jehanabad vide Memo No. 1355 dated 14.11.2015 awarded the punishment of compulsory retirement. It is mandatory for the disciplinary authority to deal with the defence of the petitioner. In this case, without considering the reply to the show cause filed by the petitioner, impugned order of punishment has been passed.

In the counter affidavit filed on behalf of respondents, there is no rebuttal on reply to the point of law raised by the petitioner.

From bare perusal of the inquiry report as well as impugned order it is apparent that though presenting officer was appointed, but he chose to play no role. Neither evidence was led nor any evidence was examined and the entire role was played by the enquiry officer. It is apparent that the reply to the second show cause filed by the petitioner was not at all considered. The impugned order does not at all disclose the reason as to why the defence submitted by the petitioner was not acceptable. Non-compliance of the same resulted in violation of principle of natural justice and same is also against the provisions of Rule 18 (3) and (4) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'C.C.A. Rules, 2005').



Considering the rival submissions of the parties and materials available on record, order dated 14.11.2015 passed in the Collector, Jehanabad vide Memo No. 1355 as contained in Annexure-5 and order dated 03.06.2016 passed by the Commissioner, Magadh Division, Gaya in Service Appeal No. 223 of 2015 as contained in Annexure-6 are hereby set aside. The respondents are directed to reinstate the petitioner to the post of “Jan Sevak” for the rest of his service with all consequential benefits.

Accordingly, this writ petition stands allowed.

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	
CAV DATE	
Uploading Date	13.02.2023
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