

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.441 of 2023

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Rahul Son of Late Sri Bengali Singh, R/o Near Civil Court Campus, Opposite
C.J.M. Court, Siwan, P.S.- Siwan Town, District - Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Under Secretary, General Administration Department, Government of Bihar, Patna.
4. Officer on Special Duty, General Administration Department, Government of Bihar, Patna.
5. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
6. The Joint Secretary, Social Welfare Department, Government of Bihar, Patna.
7. The District Magistrate, Bhojpur, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Singh, Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 13-03-2023 Heard learned counsel for the petitioner and Mr. Saroj
Kumar Sharma, learned AC to AAG-3 for the State.

Petitioner in this case is aggrieved by and dissatisfied with the order of punishment as contained in memo no.11633 dated 12.07.2022 (Annexure- '33') and the order as contained in memo no.17358 dated 22.09.2022 as contained in Annexure- '35' to the writ application by which the revision preferred by the petitioner against the order of punishment has been rejected.

It appears on perusal of the writ application that the



petitioner who was posted at the relevant time as District Programme Officer (ICDS), Bhojpur, Ara was proceeded against for the alleged demand of money from the Child Project Development Officer, Grahani, Bhojpur. The charge framed against the petitioner is available on the record as Annexure- '15' to the writ application.

It further appears that in the departmental proceeding the charge was allegedly proved against the petitioner and the petitioner was furnished a copy of the enquiry report with an opportunity to submit his response to controvert the findings recorded in the enquiry report. In response to the opportunity granted to the petitioner, the petitioner submitted his show cause reply vide Annexure- '32' dated 16.09.2021. It is the specific case of the petitioner that his detail reply as contained in Annexure- '32' to the writ application has not at all been considered by the disciplinary authority before passing the impugned order as contained in Annexure- '33' to the writ application whereby the petitioner has been awarded a punishment of stoppage of three increments with cumulative effect which is a major punishment under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

It is the further case of the petitioner that he preferred



a revision against the order of punishment and raised a number of grounds which would be evident from his revision application as contained in Annexure - '34' to the writ application, but again the revisional authority has not considered the grounds mentioned therein and no finding has been recorded thereon. Learned counsel submits that it is a case in which the impugned orders are liable to be set aside on the ground of non-consideration of the reply of the petitioner. It is further submitted that non-consideration has resulted in serious miscarriage of justice and it is in the teeth of principle of natural justice.

Learned counsel for the State has though opposed the writ application but at this stage after going through the materials available on the record particularly Annexure- '33' and '35' to the writ application, this Court is of the considered opinion that neither the disciplinary authority nor the revisional authority has considered the stand of the petitioner as contained in Annexure-'32' and Annexure-'34' respectively to the writ application. The disciplinary authority has not at all discussed the grounds raised by the petitioner to controvert the findings of the enquiry report. Similar is the situation with the revisional authority who has not considered the grounds specifically raised in the revision



application.

In such circumstance, without going into the merit of the case, this Court is of the considered opinion that the impugned orders as contained in Annexure- '33' and Annexure- '35' respectively are liable to be set aside on the ground of violation of principles of natural justice and non-consideration of the materials available on the record. Accordingly, this Court sets aside the impugned orders of punishment vide resolution contained in memo no.11633 dated 12.07.2022 (Annexure- '33') and the resolution contained in memo no.17358 dated 22.09.2022 (Annexure- '35') and remit the matter to the disciplinary authority for passing a fresh order after considering the submissions of the petitioner as contained in Annexure- '32' to the writ application.

Let a fresh order be passed within a period of four months from the date of receipt/production a copy of this order.

This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

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