

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.812 of 2019

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Anil Kumar, S/o Late Suraj Deo Prasad, Resident of Opp. Durukhigali, Langa Toli, Bankipore, Patna Sadar, Bihar-800004, at present Executive Magistrate, Marhawara, P.S. Marhawara, Dist.-Saran(Chapra)

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Planning and Development Department (Economics and Statics Directorate) Govt. of Bihar, Patna
2. The Director, Economics and Statics Directorate, Planning and Development Department, Govt. of Bihar.
3. The Secretary, Economics and Statistical Directorate (Planning and Development Department) Govt. of Bihar, Patna
4. The Secretary, Village Development Department, Govt. of Bihar, Patna
5. The Joint Director (Administration), Economics and Statics Directorate (Planning and Development Department) Govt. of Bihar, Patna
6. The Deputy Development Commissioner-cum-Chief Executive Officer, District-Village Development Authority, Aurangabad
7. The District Officer (Collector), Aurangabad.
8. The Deputy Collector-cum-Conducting Officer, Aurangabad
9. The Block Development Officer, Rafigan Block, Dist.-Aurangabad
10. Sri Lalan Ram S/o not known, Clerk, Block Office, Rafiganj, Dist.-Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Madhusudan Kumar, Advocate
For the State : Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-06-2023

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

2. The writ application has been filed with a prayer to quash the impugned orders vide Memo No. 200 dated 28.09.2018 passed by the Director (Respondent No.2) and vide Memo no. 897 dated 17.04.2018 passed by the Secretary



(Respondent No.3), by which the petitioner has been punished by way of two increments having been stopped.

3. The short submission on behalf of learned counsel for the petitioner is that exercise of jurisdiction by the appellate authority is not in accordance with law, which is manifest from the order dated 28.09.2018 (Anneuxre-P2).

4. The consideration in the order of the appellate authority reads as follows:-

" सुनवाई के क्रम में प्रस्तुत तर्क एवं प्रस्तुत साक्ष्यों तथा अभिलेख में संलग्न साक्ष्यों के अवलोकन से स्पष्ट होता है कि श्री अनिल कुमार द्वारा कोई ऐसा साक्ष्य समर्पित नहीं किया गया है जो यह प्रमाणित करे कि श्री अनिल कुमार ने अनुशासनहीनता, कार्य के प्रति लापरवाही, वरीय पदाधिकारी के आदेश का उल्लंघन , अनाधिकृत अनुपस्थिति एवं अपने अधिनस्थ कर्मियों के साथ अभद्र व्यवहार करने संबंधी कृत्य नहीं किया है। ये अपने आपको निर्दोष साबित करने में विफल रहे हैं। "

5. Learned counsel for the petitioner submits that there is no provision requiring the petitioner to produce documents to prove his innocence. Further he submits that it is apparent from the order of the appellate authority that the same is without assigning any reasons and suffers from non-application of mind.

6. Learned counsel for the State submits that in the enquiry, the issue has been dealt with. After due opportunity to



the petitioner, entire issue was considered and, therefore, the appellate authority has rightly passed this order.

7. Considering the rival submissions, the court would find that the order of the appellate authority manifests non-application of mind. There is no reasons assigned for rejecting the appeal and it is apparent that the onus of proof is sought to be shifted on petitioner for proving his innocence rather than examining the petitioner's appeal with reference to the settled principles of disciplinary proceedings where it is incumbent upon the department who framed the charges to bring home the charges in the proceeding.

8. The order dated 28.09.2018 is, therefore, unsustainable in law. The same is quashed. Matter is remitted to the appellate authority for consideration afresh. Let order be passed within three months from the date of receipt/production of a copy of this order.

9. Writ application stands allowed.

(Madhuresh Prasad, J)

shashank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.07.2023
Transmission Date	NA

