

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1669 of 2020

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Birendra Paswan @ Veerendra Paswan Son of late Ram Kishun Paswan,
Resident of Village- Dandi Mariyara, P.O. Mariyari, P.S. Neemchak, Distt.
Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Divisional Commissioner, Patna.
3. The District Collector, Patna.
4. The Sub Divisional Officer, Danapur, Patna.
5. The Addl. Collector, Departmental Enquiry, Patna Cum Conducting Officer
6. The Circle Officer, Bihta, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satya Nand Shukla, Adv Mr. Rama Nand Poddar
For the Respondent/s	:	Mr. Rishi Raj Sinha (Sc19) Mr. Manoj Kumar Sinha AC to SC 19

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 02-12-2023 Learned counsel for the petitioner and learned
counsel for the State are present.

2. The present writ petition has been filed for quashing of order dated 04.06.2019/16.07.2019 passed by the Divisional Commissioner, Patna in Service Appeal No. 198/2018 (Annexure-17) and also quashing of the order dated 18.09.2018 passed by the Collector, Patna contained in Annexure-14.

3. Counsel for the petitioner submits that the petitioner was appointed as Revenue Clerk in the year 2004 and



in the year 2013 vide memo no. 295(4) dated 28.06.2013, his services was transferred to the Collectorate, Patna and by virtue of Memo No. 3295 dated 24.09.2013, petitioner was transferred to Circle Office, Bihta where he joined his duty on 25.09.2013. Counsel further submits that vide memo no. 1014 dated 23.08.2014, the Circle Officer, Bihta issued a show cause against the petitioner to furnish clarification with regard to absence from work and office since work related to revenue Office has stopped in absence of the petitioner.

4. Counsel submits that he has sent a medical leave with messenger but same could not reach to the office within time. Counsel submits that the charge memo was issued against the petitioner by which total six charges was lodged upon him. The petitioner has responded to the said charge and the Conducting Officer upon considering the defence taken by the petitioner has found the petitioner guilty in all the alleged six charge made against the petitioner.

5. Thereafter, the disciplinary authority has issued second show cause to the petitioner and after service of the second show cause, the report has been communicated to the disciplinary authority and appointment order has been passed and in the said service appeal punishment has been affirmed.



6. Counsel submits that none of his point has been taken before the Enquiry Officer and opportunity has also not been granted. He also submits that there is no proof of service of second show cause. In service appeal, the appellate authority has not considered his case and imposed a punishment of compulsory retirement from the date of order.

7. Counsel for the State of the other hand submits that that charges made against the petitioner was of serious nature and prior to issuance of charge memo, he has on no occasion filed any slip of paper by which it becomes clear that he is interested to take leave.

8. Counsel also submits that upon service of charge memo, the petitioner has replied and the Enquiry officer upon due consideration of his defence taken in his reply hold that the petitioner is guilty in all the six charges. Counsel further submits that the disciplinary authority has issued second show cause in his defence and this was duly served from the office of Circle Officer, Bihta to him which itself is clear in the order passed by the disciplinary authority but the petitioner has not opted to file reply on the second show cause, in result, the disciplinary authority has no option left rather to pass an order of punishment and this punishment is for compulsory



retirement.

9. Counsel also submits that in the service appeal, the plea that second show cause has not been served had neither taken in service appeal not taken in the present writ petition. And upon considering the document, a reasoned order has been passed by the appellate authority. As such, there is no scope for the petitioner to interfere in the order passed against him.

10. Upon going through the pleadings, it transpires to this Court that the allegation against the petitioner was of absent from the work in unauthorized manner for more than three months. The further allegation of hamper of the revenue work completely for a period of time. Due to his action, the four cases have become time barred. All the six charges i.e. about unauthorized actions, mis-appropriation of government money, not returning money of *Raiyats*, disobedience of authorities, carelessness and discipline and non deposit of revenue receipt has been proved by the Enquiry Officer against him and no response of second show cause even after service of second show cause against him. The appellate authorities also considered all these aspects and decide this case assigning reasons.

11. In this background, this Courts find out that there



is no scope for the petitioner to make judicial review of the order passed by the disciplinary authority as well as appellate authority.

12. Accordingly, this application is dismissed.

(Dr. Anshuman, J)

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