

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2681 of 2019

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Kaushal Kumar S/o Late Jagdish Kumar Vidyarthi R/o Village- Muhabbatpur,
PO- Muhabbatpurvia Dewaiya Kothi, District- Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors through the Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna
2. The Principal Secretary, Department of Human Resources Development, Government of Bihar, Patna
3. The District Magistrate, Muzaffarpur
4. The District Education Officer, Muzaffarpur
5. The District Program Officer, Muzaffarpur
6. The Block Education Officer, Muzaffarpur
7. The Headmaster Middle School Paroo, Muzaffarpur

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Naresh Chandra Verma, Adv.
For the State : Mr.Nishant Kumar Jha, AC to S.C.-28

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 12-02-2024

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

2. The present writ application has been filed for quashing the letter dated 23.05.2018 issued vide memo no-2277 under the signature of respondent no.-05 as contained in Annexure-11, by which the petitioner has been dismissed from the service and further to reinstate him in service with all consequential benefits.

3. Learned counsel for the petitioner submits that the final



order of punishment has been passed by the order dated 31.03.2018 by the District Program Officer, Establishment, Muzaffarpur and apart from other punishments, a major punishment of demotion was imposed upon the petitioner herein, however, to the reason best known to the respondents, the said order dated 31.03.2018 has been modified subsequently by the impugned order dated 23.05.2018 without giving any opportunity of hearing to the petitioner herein.

4. Learned counsel for the petitioner further submits that the allegation against the petitioner is that he defalcated the Government money and not completed the class rooms, thereafter, a criminal case has been instituted and departmental proceeding was also started against the petitioner. Later on, learned counsel for the petitioner submits that the petitioner completed the said work given to him but in departmental proceeding, after enquiry, petitioner was punished by Annexure-9 of the writ application but later on without hearing the petitioner, he was terminated vide Annexure-11 of the writ application. It is further submitted that petitioner has retired on 30th September, 2023 from the service.

5. Learned counsel for the State submits that there is no illegality in the order passed by the concerned Authority and the



Authority has power to dismiss the petitioner from his service.

6. Having considered the arguments of the parties and on perusal of the record, it is clear that the petitioner was not heard when he was dismissed from the service, which is violation of natural justice and furthermore, the Department has no power to review its own order. As such, I am inclined to set aside the order dated 23.05.2018 (Annexure-11 of the writ application).
7. Accordingly, this writ application is allowed.

(Anjani Kumar Sharan, J)

pallavi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15-02-2024
Transmission Date	N.A.

