

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4819 of 2020

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Shailendra Narayan Singh Son of Late Ram Narayan Singh, Resident of Village- Tilauthu, P.s.- Tilauthu, District- Rohtas, Bihar, Posted as Block Statistics Supervisor at Barun, Additional Charges cum Incharge Paddy Procurement Centre, Tenggara (Barun)

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Planning and Development Department, Government of Bihar, Patna
3. The Secretary, Planning and Development Department, Government of Bihar, Patna
4. The Director Directorate of Earth and Statistics Planning and Development Department, Government of Bihar, Patna
5. The District Magistrate, Aurangabad
6. The Additional Collector cum Inquiry Officer/Conducting Officer, Aurangabad District
7. The District Statistics Officer, Aurangabad
8. The managing Director State Food Corporation, Bihar, Patna
9. The District Manager State Food Corporation, Aurangabad
10. The Block Development Officer, Barun, Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Adv.
For the State	:	Mr. Sumant Kumar Singh (AC to GA-2)
For the BSFC	:	Ms. Anukriti Jaipuriyar, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 04-07-2024

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Bihar State Food Corporation.

2. The present writ petition has been filed for



quashing the Memo No.910 dated 15.07.2015 (annexed as Annexure-1) along with Memo of charge No.508 (Aa) dated 22.04.2015 (annexed as Annexure-1/A) by which the departmental proceeding has been initiated against the petitioner and Memo No.630 dated 13.03.2018 (annexed as Annexure-1/C) by which two increments of the petitioner has been withheld with non-cumulative effect and further for quashing of the Memo No.1979 dated 28.09.2018 (annexed as Annexure-1/D) by which the appeal of the petitioner has been rejected.

3. Learned counsel for the petitioner submits that the petitioner was posted as Block Statistics Supervisor, Barun and also made in-charge of Paddy Procurement Centre, Barun, Aurangabad by the order of the District Magistrate, Aurangabad. Counsel submits that the petitioner who was appointed on 20.01.2011 as Block Statistics Supervisor. Counsel further submits that since June, 2007 to January, 2011, the petitioner was posted as Office Superintendent in Arwal District and the relevant time and the Conducting Officer of the instant departmental proceeding was also posted there and he was made in-charge as Senior Deputy Collector and OSD (Officer on Special Duty) to D.M., Arwal and was made in-charge of Director District Rural Department Agency, Arwal and used to



pressurize the petitioner to some illegal work contrary to the rule. Counsel further submits that on his instance, Senior Deputy Collector, Aurangabad cum in-charge Officer, Barun sent a letter dated 11.04.2015 to the District Magistrate, Aurangabad about so called irregularities committed by the petitioner in purchasing the paddy of Centre Tengra (Barun). Counsel submits that the petitioner who was in-charge of paddy collection centre, Barun sent a letter *vide* letter dated 28.04.2015 by which the District Manager State Food Corporation, Aurangabad was provided the details of collection of paddy alongwith relevant documents and the petitioner sent the same day another letter dated 28.04.2015 to the District Manager, Bihar State Food Corporation, Barun by which he submitted reply of show cause in view of letter No.574 dated 17.03.2015.

4. Learned counsel for the petitioner submits that without considering the reply of the show cause submitted by the petitioner, the concerned authority issued memo of charge about initiation of departmental proceeding *vide* Memo No. 910 dated 15.07.2015 in which the Additional Collector, Aurangabad was appointed as inquiry/Conducting Officer and the District Statistics Officer, Aurangabad was appointed as Presenting Officer. Counsel submits further that contrary to the Bihar



Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005'), the Conducting Officer proceeded and no witness was examined with regard to the charges leveled against the petitioner nor any relevant documents were provided to the petitioner in-spite of the fact that the petitioner had demanded several time the relevant documents and requested for deposition of witnesses as well as without considering the facts and circumstances of the case and the materials available on record submitted the enquiry report on 15.07.2015. Counsel submits that the respondent no.4 asked show cause *vide* letter no.1903 dated 01.09.2017 and the petitioner filed reply to the show cause on 24.10.2017 and without considering the reply of the show cause, the respondent no.2 issued a letter *vide* Memo No.630 dated 13.03.2018 by which the two increments of the petitioner has been withheld with non-cumulative effect. Counsel further submits that the petitioner is completely innocent and has not done any wrong. Counsel also submits that he has preferred appeal before the Appellate Authority, but the Appellate Authority has also not considered his case and rejected the appeal of the petitioner *vide* Memo No.1979 dated 28.09.2018. Counsel further submits that though, the punishment imposed upon him is the minor



punishment, but even in imposing the minor punishment, Rule 19 of the CCA Rules, 2005 has to be followed which has completely been ignored in the case of the petitioner. Counsel also submits that there is a gross violation of Rule 19(1)(e) of the CCA Rules, 2005 as the said rule says that prior to imposing punishment, consulting the Commission where such consultation is necessary has not been made. About consultation, no finding is there in the order.

5. Learned counsel for the State on the other hand submits that there is no defect in the charge memo as the punishment imposed upon the petitioner is minor penalty and for imposition of minor penalty, Rule 17 of the CCA Rules, 2005 is not the guideline and therefore, the charge memo is not defective. Counsel further submits that the charge memo has been issued for imposing minor penalty in the light of Rule 19(1)(a) of the CCA Rules, 2005 and subsequently, the representation of the petitioner has been entertained in the light of Rule 19(1)(c) of the CCA Rules, 2005 and later on, the punishment order has been passed in the light of Rule 19(1)(d) of the CCA Rules, 2005 in which findings on each imputation of misconduct or misbehaviour has been recorded in the final order. Counsel submits that the consultation of the Commission



is not necessary ingredient for the petitioner and hence, the order of punishment as well as the order of appeal affirming the punishment has completely in accordance with law.

6. Upon hearing the parties and after perusal of the documents on record as annexed by the petitioner in the writ petition as well as annexed by the respondents in the counter affidavit, the Court is very much surprised to see that the charge memo has been issued in the light of Rule 19(1)(a) of the CCA Rules, 2005 which has been correctly been issued. The letter of District Magistrate has also been correctly issued for conduction of imposing punishment for minor penalties. But the Director of Statistics and Development Department has issued a letter in which the Additional Collector, Aurangabad was appointed as Conducting Officer and the District Statistics Officer, Aurangabad was appointed as Presenting Officer issued *vide* Memo No. 910 dated 15.07.2015 and decided that the departmental proceeding shall run in accordance with Rule 17 of the CCA Rules, 2005 and if, such decision has been taken, then in that case, the decision has been taken by the Director completely in accordance with law as in Rule 19(1)(b) of the CCA Rules, 2005, it is well within the power of the Director to decide to hold an enquiry by way of holding the departmental



proceeding through Conducting Officer. But in that case, Rule 19(1)(b) of the CCA Rules, 2005 is very much clear and states as under:-

“holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary.”

Meaning thereby that subsequently, it has been decided at the level of the Director that the enquiry in accordance with rule 17 of the CCA Rules, 2005 has to take place and then in that case, following every steps are mandatory as mentioned in Rule 17(3) to 17(23) of the CCA Rules, 2005 i.e. demanding show cause, providing documents, article of charge must be proved and meticulous examinations are also required. In addition to that, it is also necessary to demand written statement as well as second show cause. But from the final order, it transpires to this Court that those ingredients are lacking which are necessary to be made in accordance with rule 17 of the CCA Rules, 2005.

7. In this view of the matter, it transpires to this Court that the punishment order is absolutely bad in law and in complete violation of the rule established under CCA Rules,



2005 and similarly, in the appeal also, that basic violation of law has also not been taken into consideration. Therefore, the order contained in contained in Memo No.630 dated 13.03.2018 (annexed as Annexure-1/C) and order contained in Memo No.1979 dated 28.09.2018 (annexed as Annexure-1/D) are hereby set aside. The respondent authorities shall be at liberty to proceed further against the petitioner on the basis of charge memo which has been issued with a view to impose minor penalties but, everything shall be completed within six months from the date of production of the order if, respondent authorities decides to proceed further.

8. Accordingly, with the aforesaid observations, the present writ petition stands allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	05.07.2024
Transmission Date	NA

