

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4372 of 2022

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Parshuram Singh Son of Late Sharda Prasad Singh Resident of Village-
Pandavchak, P.O.- Mahadeopur, P.S.- Amarpur, District- Banka, PIN- 813101
at present posted as Block Education Officer, Lalganj, Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary, Department of Education, Bihar, Patna.
3. The Director, Primary Education, Department of Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Munger Division, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar, Adv.
For the Respondent/s : Mr.Prabhakar Jha, G.P.-27

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 27-06-2024

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

2. By filing the present writ application, the petitioner has
prayed for issuance of appropriate writ/writs, order/orders,
direction/directions to the respondent Authorities for the
following reliefs:

*i) For quashing of order dated
28.06.2021 contained in Memo No. 427
issued under the signature of respondent
Director Primary Education, Bihar, Patna
by which the petitioner was awarded with
punishment of withholding of two annual*



increments with non-cumulative effect.

ii) For quashing of order dated 14.01.2022 contained in Memo No. 11 issued under the signature of the Additional Chief Secretary, Education Department, Bihar, Patna cum Appellate Authority, who has upheld the order of disciplinary authority without considering the same.

iii) For direction to the respondent Authorities that after quashing of aforesaid orders, consequential benefits arising out thereafter be given to the petitioner.

iv) For any other relief(s) to which petitioner is found entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed in Lower Subordinate Education Service and gave his joining on 02.04.1991. After some years, he was transferred to another school situated at Garikurma Sambhuganj, Banka on 23.09.1998. Thereafter, he was granted promotion in the cadre of Subordinate Education Service by letter dated 20.11.2015 contained in Memo no. 778.

4. Learned counsel further submits that the petitioner was made In-charge Principal of District Education and Training Institute, Sekhpura by letter dated 14.12.2018 and while he was



discharging his duty of the In-charge Principal, an inspection was done by the Regional Deputy Director of Education, Munger and he submitted inspection report contained in Memo No. 428 dated 04.04.2019. Thereafter, show cause was issued to him and finding it unsatisfactory, the respondent Authority i.e. Regional Deputy Director of Education issued article of charges by letter dated 10.05.2019 and came out with altogether five charges against the petitioner.

5. It is further submitted that the aforesaid letter does not speak about the name of Inquiry Officer as well as Presenting Officer for conducting disciplinary proceeding as laid down in Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

6. It is further pertinent to mention here that the appointing authority of the petitioner is the Director Primary Education, Bihar and the authority, who has issued the article of charges is the Regional Deputy Director, who is sub-ordinate to disciplinary authority/appointing authority having no jurisdiction for doing so. In fact, the respondent Regional Deputy Director became an Inquiry Officer himself in the present case and after so called enquiry, submitted report dated 10.10.2020, pursuant to which, the disciplinary authority-cum-



the Director, Primary Education issued show cause notice to the petitioner for giving reply. The petitioner submitted his reply to the said show cause dated 30.01.2021 about each of the charges leveled against him, but the disciplinary authority without considering the petitioner's reply, came out with order of punishment of withholding two annual increments with non cumulative effect by letter dated 28.06.2021 contained in Memo No. 427.

7. Aggrieved by the aforesaid punishment, the petitioner preferred an appeal before the Appellate Authority i.e. the Additional Chief Secretary of Department of Education, Bihar, and submitted categorically about the each and every charges supported by relevant documents and further after due consideration, requested to discharge him from those charges and punishment awarded by the Disciplinary Authority by filing appeal/representation dated 14.08.2021 annexing all relevant documents. The Appellate Authority without giving due consideration and proper appreciation upon appeal/representation of the petitioner, simply affirmed the order of the disciplinary authority by his order dated 14.01.2022 contained in Memo No. 11 in very mechanical manner.

8. It is further submitted that the respondent Regional



Deputy Director of Education, Munger arbitrarily stopped the full salary of the petitioner after initial inspection which is not proper and justified.

9. Learned counsel for the petitioner further submits that without appointing the Inquiry Officer and Presenting Officer and merely on the basis of recommendation of Regional Deputy Director of Education, the petitioner was awarded punishments which is enumerated under the provisions of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. And not only this, but the articles of charges was issued by the respondent Regional Deputy Director, who further also became Inquiry Officer himself for further steps on the basis of 'proved charges'. It is matter of surprise that how one can be judge in his own cause.

10. A counter-affidavit has been filed on behalf of the respondent nos. 2 & 3 stating therein that the petitioner has delayed forwarding of pension paper of one employee, namely, Ravindar Kumar Singh and also he did not produce relevant documents when asked by the respondent no.4 and also records were not found in proper manner. Hence, the respondent no.3 has awarded punishment of withholding of two increments with non-cumulative effect which was challenged before the



respondent no.2, who also after hearing the parties and after perusing the records rejected the memo of appeal.

11. Learned counsel for the State fairly submits that at the time of issuing of memo of charges, no Inquiry Officer as well as Presenting Officer was appointed.

12. Having heard learned counsels for the parties, it appears that at the time of issuing of memo of charges nowhere it is mentioned about appointment of Inquiry Officer as well as Presenting Officer nor any list of such witnesses by whom, the articles of charges are proposed to sustain in conducting regular departmental proceeding as per the provisions laid down in Rule 17 of the Bihar Government Servant (Classification, Control and Appeal), Rules, 2005. In fact, the article of charges was not issued by the competent authority i.e. the Director Primary Education (respondent no.3) rather the same is issued by the authority subordinate to the disciplinary authority i.e. respondent no.4, who firstly issued Memo No. 428 dated 04.04.2019 (Annexure-1 of the writ application) as an Inspecting Authority and thereafter he issued article of charges and became the Inquiry Officer in departmental proceeding, which clearly shows the arbitrariness of the higher authorities.

13. In such view of the matter, I deem it fit to set aside



Annexure Nos. 5 & 7 and direct the respondent Authorities to grant all the consequential benefits as well as other benefits in accordance with law as claimed by the petitioner considering the fact that during the pendency of the present case, the petitioner has retired from the service.

14. With the aforesaid observation, this writ application stands allowed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2024
Transmission Date	NA

