

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8386 of 2016

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Balaji Dubey son of Late Jagarnath Dubey, Resident of village- Bihsunpura
Tola Kerwani, P.S.- Manjhagarh, District- Gopalganj

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Department of Panchayati Raj, Govt. Bihar, Patna.
2. The Divisional Commissioner, Saran Division, Chapra
3. The District Magistrate, Gopalganj
4. The District Development Commissioner, Gopalganj
5. The District Panchayat Raj Officer, Gopalganj
6. The Sub-Divisional Officer, Gopalganj
7. The Block Development officer, Barauli Block, District- Gopalganj

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Advocate
For the Respondent/s : Mr. Sunil Kumar Mandal, SC-3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 06-02-2024

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

2. The present writ petition has been filed for quashing
the order dated 31.01.2012 contained in Memo No. 185 passed by
the District Magistrate, Gopalganj (Respondent No. 3) by which
the petitioner has been inflicted the punishment of being denoted
to draw the basic pay scale and the order dated 05.05.2015 passed
by the Divisional Commissioner, Saran Divison, Chapra
(respondent no. 2) in Service Appeal No. 77 of 2012.



3. Learned counsel for the petitioner submits that initially the petitioner was appointed as Panchayat Secretary in the district of Gopalganj in the year 2009. The petitioner had received a memo of charge dated 23.05.2009 and thereafter the petitioner had filed the detailed reply alleging therein that out of all six charges the two charges are stale and not related to his regime with regard to other four charges. The petitioner had submitted his reply on 23.06.2009. Learned counsel for the petitioner further submits that without considering the show cause on behalf of the petitioner and without examining any witnesses, the petitioner was found guilty of some new charges which was not the subject matter of charge memo and without compliance of 18(3) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'Rules') and without any significance of notice, the petitioner has inflicted some punishment. He further submits that from perusal of the impugned order dated 31.01.2012 which was punishment awarded under the Rules and from perusal of the impugned order dated 31.01.2012 it appears that the District Magistrate had not mentioned the period which is required mandatory under the 14(iv) of the Rules and from a bare reading of the 14(iv) of the Rules “ *reduction to a lower stage in the time-scale of pay for a period not exceeding*



three years, without cumulative effect” and till date of retirement i.e. on 28.02.2023 the order dated 31.01.2012 is effective and even the appellate authority has not considered the contention of the petitioner and the appeal of the petitioner was also dismissed.

4. Learned counsel for the State, on the other hand, referring the counter affidavit and submits that the order impugned was passed in accordance with law and there is no infirmity in the impugned order dated 31.01.2012 and the appellate order dated 05.05.2015.

5. In view of the aforesaid, it appears that in teeth of the 14(iv) of the Rules the present order has been passed and it appears from the order dated 31.01.2012 that the maximum period of three years not mentioned in the impugned order and the submission of the petitioner was not considered and no any witness was examined in the proceeding.

6. Considering the facts and circumstances of the matter, the impugned order dated 31.01.2012 and the appellate order dated 05.05.2015 are set aside and the respondents are directed to pay all the consequential benefits to the petitioner within a period of two months from today taking into account the fact that the petitioner has already retired on 28.02.2023 during the pendency of the writ petition.



7. The writ petition with the aforesaid observation and direction stands allowed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12.02.2024
Transmission Date	N.A.

