

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17835 of 2015

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Manoj Kumar, Son of Late Bhuneshwar Chaudhary R/o Mohalla-Barmasiya,
P.S.-Katihar, District-Katihar.

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Secondary Education, Govt. of Bihar, Patna.
4. The Commissioner, Purnea Division, Purnea.
5. The Regional Deputy Director, Purnea Division, Purnea.
6. The District Education Officer, Katihar.
7. The District Education Officer, Araria.
8. The Sub Divisional Education Officer, Katihar.
9. The District Programme Officer (Estt.), Education, Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raghvendra Kumar Singh, Advocate
For the State	:	Mr.Sudama Kumar, A.C. to S.C.-12.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-01-2024

Heard learned counsel appearing for the petitioner and

learned counsel appearing for the State.

2. This writ application has been filed for the following
reliefs:

(I) For issuance of an appropriate writ order, direction to
quash the office order bearing memo no 250 (legal) dated 18.8.15
passed by Director, Secondary Education, Bihar, Patna by which
appeal has been dismissed and office order bearing memo no. 1242
dated 31.12.13 issued under the signature of Regional Deputy
Director Education, Education Department, Purnea Division,
Purnea in departmental proceeding against petitioner where by and



where under the petitioner was awarded following two punishments.

(a) Two increments were withheld with accumulative effect.

(b) The petitioner was ordered to submit his joining as District Education Officer Araria in pursuance of letter no. 2280 dated 3.6.13 issued by Secretary to Commissioner Purnea Division, Purnea

(II) For issuance of an appropriate writ, order, direction that the awarding major punishments in departmental proceeding the procedure was not followed as required under law.

(III) For issuance of an appropriate writ, order, direction to quash order by which the petitioner has been directed to join at District Education Officer, Araria without any order of transfer of petitioner from his present posting order to join other within a short period has been passed.

(IV) For issuance of an appropriate writ, order, direction granting any other relief or reliefs for which petitioner is found entitled.

3. When the petitioner was posted as Assistant in the Office of District Education Office, Purnea, the petitioner was transferred from Purnea to Katihar which was subject matter of



CWJC No.5616 of 2014 and during pendency of the writ application, the petitioner was put under suspension with effect from 14.01.2013 and the District Education Officer, Katihar was appointed as Inquiry Officer. The petitioner has filed a show cause explaining the charges against him in response to the letter dated 14.01.2013 alongwith 65 photo copies of the evidence on 09.07.2013 and it is clear from the show cause of the petitioner that new file was not opened by the petitioner rather it was opened by one Rajesh Kumar Gupta, the clerk of the office on 13.04.2010. The Inquiry Officer-cum-District Education Officer, Katihar submitted his enquiry report to Regional Deputy Director, Purnea Division, Purnea through Memo No.754 dated 24.10.2013 without serving the copy of the said report to the petitioner. Thereafter, Memo No.1102 dated 18.11.2013 issued under the signature of respondent No.5 was served upon the petitioner asking his explanation after the enquiry report was submitted by the Inquiry Officer.

4. The petitioner in response to the Memo No.1102 dated 18.11.2013 of the respondent No.5 submitted his show cause that the Inquiry Officer has reported that prima facie charge levelled was not proved against the petitioner, however, it was opined by the Inquiry Officer that the petitioner was found



negligence to the duty by not making note that said Smt. Nivedita Mandal was not entitled for the salary but this was not the charge served and requested to exonerate him from the charges. Thereafter, the respondent No.5 has passed the Office Order bearing memo No.1242 dated 31.12.2013 whereby the respondent No.5 has awarded the following punishment to the petitioner. (i) *Two arrival increments have been with held with accumulative effect.* (ii) *The petitioner was asked to submit his joining in the Office of District Education Officer Araria in view of letter no. 2280 dated 3.6.13 issued by Assistant to Commissioner Purnea Division, Purnea.* It is clear from the charges served was not found proved by the Inquiry Officer but the Inquiry Officer found proved the charges which was never served upon the petitioner and the same was not a subject matter of memo of charge and the Disciplinary Authority without considering the show cause of the petitioner dated 09.07.2013 and 24.11.2013 and without considering the enquiry report has passed the order dated 31.12.2013 and non-asking show cause on the point of the differences on the report of the Inquiry Officer the impugned order (Annexure-12) is in violation of Rule of Law.

5. Learned counsel for the petitioner submits that from a bare perusal of the inquiry report it appears that the Inquiry Officer



has not found any material against the petitioner but he has inflicted two punishments.

6. Learned counsel for the State, on the other hand, has vehemently opposed the prayer and submits that the proceeding was in accordance with law and there was no infirmity in the proceeding and after giving the second show cause the order impugned has been passed and the order passed in the proceeding is the minor punishment.

7. In view of the aforesaid, it transpired that without considering the contention of the petitioner the order impugned was passed and even the Inquiry Officer was found not proved the charges against the petitioner and Inquiry Officer has found proved the charges which was never served upon the petitioner or the same was not the subject matter of memo of charge.

8. In view of the aforesaid, order dated 18.08.2015 (Annexure-2) and order dated 31.12.2013(Annexure-12)are hereby set aside and the writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.01.2024
Transmission Date	12.01.2024

