

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19825 of 2015

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Uday Kant Jha S/o Hari Jha Resident of Village and P.S. - Malaypur, District -
Jamui.

... .. Petitioner/s

Versus

1. The State Of Bihar, through Labour Commissioner, Labour Resources
Department, Government of Bihar, Patna
2. The Labour Commissioner, Labour Resources Department, Government of
Bihar, Patna.
3. The Chief Factory, Inspector, Bihar, Patna.
4. The Deputy Chief Factory Inspector, Muzaffarpur Bihar.
5. The Factory Inspector, Samastipur, Circle Samastipur.
6. The District Provident Fund Officer, Samastipur.
7. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tara Nath Jha, Advocate
	:	Mr. Murlidhar Mishra, Advocate
For the A.G. Bihar	:	Mr. Ram Kinker Choubey, Advocate
For the State	:	Mr. Anil Kumar Verma, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 12-02-2024

Heard Mr. Tara Nath Jha, learned counsel for the
petitioner, Mr. Ram Kinker Choubey, learned counsel for the
Accountant General and Mr. Anil Kumar Verma, learned
counsel appearing on behalf of the State.

2. The present writ petition has been filed for quashing
the order issued vide memo no. 344 dated 28.01.2014 issued
under the signature of the respondent no.2 by which the 100%
pension of the petitioner and the gratuity of the petitioner was



ordered not to pay and also for quashing the entire departmental proceeding which was initiated against the petitioner.

3. Learned counsel for the petitioner submits that when the petitioner was in the service, he was put under suspension vide office order memo no. 4287 dated 28.12.2006 on the ground that the petitioner was in judicial custody with respect to some charges when he was in service. Learned counsel for the petitioner further submits that when the petitioner released from the judicial custody, he joined serviced on 09.02.2008. Thereafter, the petitioner has retired from service w.e.f. 31.01.2010 and he has made a representation before the authority concerned on 03.12.2010 stating therein that he has not been paid his terminal dues. Thereafter, the petitioner received a letter vide memo no. 110 dated 10.03.2011 which was addressed to the petitioner's home address along with the office order no. 16 dated 23.02.2011 by which the petitioner has been directed to appear on 24.03.2011 before the respondent no.3. The petitioner had received a letter dated 10.03.2011 along with office order no.16 dated 23.02.2011 under the signature of the respondent no.3 by which a proceeding under Bihar Pension Rule has been initiated against the petitioner under Rule 43B of the Bihar Pension Rules and accordingly the Prapatra-K was



also issued vide letter dated 23.02.2011. Thereafter, the petitioner received a letter dated 17.07.2013 along with a letter dated 31.07.2013 on 07.08.2013. Learned counsel for the petitioner submits that bare perusal of the letter dated 17.07.2013 it appears that the petitioner has been asked to file the explanation by way of second show cause till 25.07.2013. Learned counsel for the petitioner submits that although he has received the letter dated 17.07.2013 on 07.08.2013 how can it possible that he submitted his second show cause reply till 25.07.2013. The petitioner has requested the authority concerned to give him some time to file a reply to the second show cause but the authority concerned, without considering the request of the petitioner, had passed the impugned order by which the petitioner inflicted punishment 100% pension and gratuity will not be released in favour of the petitioner.

4. Learned counsel for the petitioner further submits that it is admitted fact that without considering the second show cause notice of the petitioner, the authority concerned had passed the impugned order which is bad in law and from bare perusal of the impugned order dated 28.01.2014 it appears that without considering the contention of the petitioner, the impugned order has been passed. Even the petitioner has not



received the second show cause notice in time as stipulated in the letter dated 17.08.2023 to file the reply in stipulated time. So, he has not filed the reply in time and he asked the authority concerned to give him some time but without replying to the letter of the petitioner, the authority concerned had passed the impugned order. Learned counsel for the petitioner further submits that when the petitioner has received the letter dated 17.07.2013 and it appears that the same was sent on 31.07.2013 then how the petitioner has filed the reply/explanation by 25.07.2013. Learned counsel for the petitioner further submits that when he received a letter dated 17.07.2013 on 07.08.2013 he had informed the authority concerned on 12.08.2013 stating therein that sometimes it requires to file the reply/explanation but no action whatsoever has been taken by the authority concerned and without waiting the reply/considering the application of the petitioner dated 12.08.2013, the respondent no.2 has passed the final order on 28.01.2014 by which the petitioner has been inflicted two punishments. First, the 100% pension was seized and further order not to pay the gratuity to the petitioner.

5. Learned counsel for the State submits that bare perusal of the aforesaid letters the petitioner has sufficient time



to file reply to the second show cause but he has not chosen to file the same and he has chosen to file an application before the authority concerned for seeking time to file a reply to the show cause notice. He further submits that there is no infirmity in the impugned order.

6. Considering the aforesaid facts, it appears that although the respondents have issued the second show cause notice to the petitioner but the same was received after 25.07.2014. In view of the matter the petitioner has not filed the reply to the second show cause and the respondents have passed the impugned order. Accordingly, the impugned order dated 28.01.2014 is set aside and writ petition is allowed.

(Rajesh Kumar Verma, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2024
Transmission Date	NA

