

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8674 of 2019

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Deepak Kumar Son of Late Rajendra Prasad Resident of Village-Guriya, PS-
Imamganj, PO-Pakri Guriya District-gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal secretary, Education Department
Government of Bihar, Patna
2. The Director, Secondary Education, Government of Bihar, Patna
3. The Director Administration Cum Addl. Secretary, Education Department ,
Government of Bihar, Patna
4. The Regional Deputy Director of Education, Magadh Division, Gaya
5. The District education officer, Nawada.
6. The District Education Officer, Gaya.
7. The District Programme Officer (Establishment), Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bajarangi Lal, Adv
For the Respondent/s : Mr. Madhaw Prasad Yadav (Gp23), Adv

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 04-03-2024

Heard Mr. Bajarangi Lal, learned counsel for the
petitioner as well as Mr. Madhaw Prasad Yadav, GP 23, learned
counsel for the State.

2. Learned counsel for the State filed a counter affidavit in
the Court. Let the same be accepted and kept on record.

3. The present writ application has been filed by the
petitioner for following reliefs:-

*(i) For setting aside the order contained in Memo
No.2582 dated 29.11.2018 passed by the Director,
Secondary Education, Bihar whereunder and*



whereby Departmental Service Appeal filed by the petitioner has been rejected and punishment order passed by the Regional Deputy Director of Education, Magadh Division, Gaya contained in memo no.409 dated 29.04.2017 has been affirmed.

(ii) For setting aside the punishment order passed by Regional Deputy Director of Education, Magadh Division, Gaya vide office order contained in memo no.409 dated 29.04.2017 by which four punishments have been awarded to the petitioner.

(iii) Or/And to pass order to which petitioner is entitled in the facts and circumstances of the case.

4. Learned counsel for the petitioner submits that petitioner was initially appointed as a Clerk on compassionate ground on 21.02.1997 in Primary Teacher Training College, Sherghati (Gaya). Later on, he was transferred and posted in the Office of Superintendent of Education Office, Nawada. In the meantime, restructuring and unification of offices of District offices of the Education Department was being done, where upon the petitioner was attached with establishment section of unified education office of Nawada and vide letter no.268 dated 31.01.2011, letter no.364 dated 05.02.2011 and letter no.2409 dated 29.07.2011 various works were assigned to the petitioner but he was not assigned work of establishment section of unified office of Education Department in the District of Nawada



(Annexure-1 series).

5. He further submits that in 2012, Vigilance Department conducted an enquiry on the complaint of one Haridwar Singh, President of District Primary Teacher's Association, Nawada against the then District Education Officer, Nawada in relation to allotment of work made by him amongst officers of Education Office, Nawada. In course of investigation, Vigilance summoned the petitioner also. Whereupon, he appeared before the Vigilance authorities on 04.07.2011 and submitted his written statement stating therein, that the petitioner had no role in assignment of work amongst the officials as said file was not operated or dealt with by him at any point of time. As such, he had no role in allotment of work among the officers as being Clerk in the Office of DEO, so, the allegation against him is totally wrong.

6. The Vigilance, after completing enquiry submitted its report on 18.10.2013 holding that the allegations made against D.E.O, Nawada has been found true because the order issued by him contained in memo no.2106 dated 16.10.2011 by which work amongst officers of Nawada District was distributed was cancelled by R.D.D.E., Gaya vide memo no.1090 dated 21.10.2011. In the said report of Vigilance, it was reported that



the petitioner and other clerks posted in the office of DEO, Nawada are also involved.

7. On the basis of the Vigilance Report, departmental proceeding was initiated against the petitioner vide memo no.744 on 08.09.2015 issued by the RDDE, Gaya. In the said proceeding, DEO, Jehanabad was appointed as conducting officer and District Programme Officer (Establishment), Nawada appointed as Presenting Officer.

8. He further submits that petitioner appeared in the departmental proceeding before the conducting officer cum DEO, Jehanabad and denied all the charges levelled against him and also requested to exonerate him from the proceedings.

9. Thereafter, without giving any second show cause or without supplying a copy of enquiry report submitted by the DEO, Jehanabad, the RDDE, Magadh Division, vide office order contained in memo no.409 dated 29.04.2017 awarded four punishments to the petitioner by holding that the petitioner has committed gross misconduct, the punishments are stoppage of one increment with cumulative effect, petitioner shall not be entitled for assignment of charge of important files, punishment of censure and strict warning for future.

10. Being aggrieved by the order of punishment passed by the



RDDE, Magadh Division, petitioner filed an appeal before the Appellate Authority and the Appellate Authority affirmed the order of the RDDE, Magadh Division (Annexure-6).

11. He further submits that, in the enquiry, petitioner was exonerated but the R.D.D.E. and Appellate Authority did not considered the fact that and only on the basis of Vigilance enquiry, granted punishment to the petitioner.

12. Learned counsel for the State filed a counter affidavit and supplementary counter affidavit and in which he has stated that the order, passed by the RDDE. is passed in accordance with law and there is no infirmity in it.

13. Considering the arguments advanced on behalf of the parties and after perusing the records, I set aside the Annexure-4 and 6 of the writ application and the petitioner is also entitled to get all consequential benefits.

14. Accordingly, this writ application is allowed.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.03.2024
Transmission Date	NA

