

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.485 of 2019

In

Civil Writ Jurisdiction Case No.3634 of 2013

Prof. Sheo Nandan Singh, aged about 60 years (Male) S/o Late Mahavir Singh Resident Of Village - Gospur, Warsaliganj, P.S. - Warsaliganj, District - Nawada

... .. Appellant/s

Versus

1. Bihar Agricultural University Sabour, Bhagalpur through its Registrar
2. The Vice Chancellor Bihar Agriculture University, Sabour, Bhagalpur
3. The Registrar, Bihar Agriculture University, Sabour, Bhagalpur

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Devendra Prasad Singh, Advocate
For the BAU	:	Mr. Shailendra Kumar Singh, Advocate
		Mr. Sriram Krishna, Advocate
		Mr. Prabhat Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 03-09-2024

Re: I.A. No. 1 of 2019

Heard I.A. No. 1 of 2019. There is delay of about 17 days in filing the present L.P.A. No. 485 of 2019.

2. For the reasons stated in the application read with the affidavit, delay of about 17 days in filing the present L.P.A. is condoned. I.A. No. 1 of 2019 stands allowed.



3. With the consent of learned counsels for the respective parties, the matter is taken up for final disposal.

4. The appellant was subjected to disciplinary proceedings on certain allegations. No doubt, the appellant somehow was avoiding to face disciplinary proceedings as is evident from the dates and events narrated in the records. Ultimately, his services have been terminated by Office Order bearing No. O.O. No. 460/(DA), BAU, Sabour, dated 31.03.2012 *vide* Annexure-28 to the CWJC No. 3634 of 2013.

5. Feeling aggrieved by the order of termination, appellant has filed CWJC No. 3634 of 2013. The learned Single Judge proceeded to affirm the order of termination while quoting that appellant is alleged to have committed misdeeds which has been narrated at Page No. 4 of the order dated 26.02.2019 passed in CWJC No. 3634 of 2013 and it is in tabular format. The alleged charges, other than production of matriculation certificate, are not supported by material information to the extent of which order, letter issued by the appellant's superiors in asking the appellant to execute. To what extent, he has failed to execute, resultantly, he has disobeyed the orders of his superiors are not forthcoming. The learned Single Judge has not appreciated the aforementioned material information.



6. Be that as it may, it is necessary to reproduce Office

Order of termination dated 31.03.2012 and it reads as under:

“BIHAR AGRICULTURAL UNIVERSITY : SABOUR

O.O. No. 460/(DA), BAU, Sabour

Dated : 31st March 2012

OFFICE ORDER

Sri S. N. Singh, Jr. Scientist-cum-Asstt. Professor (PBG), Agricultural Research Institute, Patna was put under suspension vide O.O. No. 13, dated 27.03.2010 w.c.f 27.03.2010, fixing his headquarters under Director Research, Rajendra Agriculture University, Pusa on the charges of his disobedience, insubordination & negligence in executing various orders and instructions of the University with regard to the submission of his Matriculation Certificate. As reported by the director research, Rajendra Agriculture University, Pusa vide L.No. 10, dated 26.04.2010, he did not report his presence under Director Research, R.A.U., Pusa. Later on as a result of the information of bihar agriculture university, Sabour (05.08.2010), the headquarters of Sri Singh was shifted from Pusa to Sabour under the principal, bihar agriculture college, Sabour vide OO No. 118/987, DA, BAU, Sabour dated 26.08.2011, where he reported his presence on 15.09.2011, even after publication of notice in the newspaper and since then he absconded himself without any information to the authorities concerned.

Subsequently an Enquiry Committee comprising of Dean (Agriculture) & Comptroller, B.A. U., Sabour was constituted vide no. 988, dated 26.08.2011 for enquiring the whole issue of Sri Singh. The committee enquired into the whole case as follows:

1. Sri Singh was asked to submit his explanation within 10 (ten) days in defence to the queries of conducting officer vide a registered letter of this office no. 544/717/Dean (Ag), BAU, Sabour dated 05.11.2011, but the office did not receive any explanation till 01.12.2011.

2. Again Sri Singh was informed through the notice advertised in the Hindi daily newspaper "Dainik Jagran", Bhagalpur/Patna Edn, dated 02.11.2011 for appearance before the committee but he did not appear before the committee.

3. Later Sri Singh came to the Office of the Dean (Ag) and told that he did not receive the aforesaid letter. Thereafter a photo copy of the said letter was given to him and it was received by him on 03.12.2011.



After a thorough examination, the committee submitted its report on 26.12.11 and found no substance in the explanation submitted by Sri Singh. Basically he tried to confuse the whole issue. He also failed to produce his Matriculation Certificate before the committee in support of his Date of Birth and disobeyed the orders passed by the Hon'ble High Court, Patna to submit the Matriculation Certificate recorded in CWJC No. 15059/2010. The committee found Sri Singh fully responsible for the charges levelled against him.

The proceedings of the committee (dated 26.12.2011) was served to Sri Singh vide registered letter no. 1729, dated 06.02.2012 for explanation, which was returned undelivered by the post office to this office on 18.02.2012. Ultimately the same letter was delivered to Sri Singh through his learned Counsel in the court of Hon'ble Justice Sri Ajay Kumar Tripathi, Hon'ble High Court, Patna on 22.02.2012 hearing CWJC no. 9483 of 2011. In response to which Sri Singh submitted his explanation on 20.02.2012 to the Dean (Ag), which was examined by the committee on 17.03.2012. The committee was not satisfied with the explanation submitted by Sri Singh.

After careful examination of the whole record the undersigned is of considered view that Sri Singh is guilty of misconduct and having regard to his different attitude, and induced to award punishment of clause 13.3(I) and 13.3 (2b-iv) of RAU Statute adopted by BAU and TERMINATE the services of Sri S. N. Singh, Junior Scientist- cum-Assistant Professor (Plant Breeding & Genetics), Agricultural Research Institute, Patna with immediate effect.

**Sd/-
Vice-Chancellor**

Memo No. 2044/(DA), BAU, Sabour

Dated : 31st March, 2012"

7. Perusal of the last but one paragraph, it is evident that there is a total non-application of mind by the Vice Chancellor while terminating the services of the appellant. It is merely stated that appellant's explanation was sought, it was communicated and returned undelivered by the Post Office, resultantly, it was served through his counsel and the appellant had submitted his explanation on 20.02.2012 to the Dean (Ag) which was examined by the Committee on 17.03.2012. The Committee was not satisfied with the explanation submitted by the appellant. Except the



aforementioned submission, nothing has been revealed to the extent of what are the contentions of the appellant insofar as furnishing of his explanation and how the Committee has considered each of the contention, is not forthcoming. Further, in the event of assigning reasons for rejection of appellant's explanation by the Committee itself, on the other hand, decision has not been made available to the appellant along with the order of termination, therefore, we have to draw inference that there is non-application of mind while passing the order of termination by the Vice Chancellor and the same has not been taken note of and appreciated by the learned Single Judge, therefore, we are compelled to interfere with the order of the learned Single Judge dated 26.02.2019 passed in CWJC No. 3634 of 2013. Accordingly, it is set aside and so also order of termination dated 31.03.2012 *vide* Annexure-28 to the CWJC No. 3634 of 2013.

8. The matter is remanded to the Committee for taking fresh steps insofar as considering the appellant's explanation. Thereafter, once again appellant shall be provided an opportunity of furnishing his explanation. Further, the concerned authority is hereby directed to pass suitable order after due consideration of the appellant's explanation to be filed read with the Committee's



decision. The above exercise shall be completed within a period of four months from today.

9. The appellant is hereby directed to co-operate in the aforementioned proceedings, failing which the respondents are hereby directed to proceed to pass *ex parte* order. The disciplinary authority is directed to take note of principles laid down by the Hon’ble Supreme Court in the case of *Managing Direction, ECIL, Hyderabad and others vs. B. Karunakara and others* reported in (1993) 4 SCC 727 and *Chairman-cum-Managing Director, Coal India Ltd. and others vs. Ananta Saha and Ors.* reported in (2011) 5 SCC 142. read with decision in the case of *State of Uttar Pradesh and Others vs. Prabhat Kumar, 2022 LiveLaw (SC) 736* insofar as regulation of the intervening period as suspension or duty and arrears of pay etc., within a period of three months from passing of fresh final order.

(P. B. Bajanthri, J)

(G. Anupama Chakravarthy, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2024
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