

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7945 of 2012

- 1.1. Pramila Devi, Wife of Late Ram Sewak Ram, Resident of Village- Ganauli, P.S.- Andhratharhi, District- Madhubani.
- 1.2. Prasant Kumar Mehra, Son of Late Ram Sevak Ram, Resident of Village- Ganauli, P.S.- Andhratharhi, District- Madhubani.
- 1.3. Nishikant Kumar Ranjan, Son of Late Ram Sevak Ram, Resident of Village- Ganauli, P.S.- Andhratharhi, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary-Cum-I.G. Registration, Bihar , Patna, New Secretariat, Patna
3. The Assistant Inspector General Of Registration, Bihar, Patna
4. The District Magistrate-Cum-Registrar, Gaya, Bihar
5. The Inspector Of Registration Office, Magadh Division, Gaya, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Hemendra Pd. Singh, Sr. Advocate Mr. Ram Naresh Ray, Advocate Mr. Yogendra Kumar, Advocate
For the Respondent/s	:	Mrs. Binita Singh, SC 28

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 02-01-2024

Heard Mr. Hemendra Pd. Singh, learned senior advocate appearing on behalf of the petitioners and Mrs. Binita Singh, learned counsel appearing on behalf of the State.

2. During the pendency of the writ petition the original petitioner had died on 17.02.2023 and the legal heirs of the original writ petitioner have been substituted vide order dated 28.11.2023.

3. The present writ petition has been filed for setting



aside the office order contained in Memo no. 448 dated 15.02.2012 issued under the signature of respondent no. 2 whereby and whereunder the petitioner has been compulsory retired from service from the post of temporary clerk.

4. Pursuant to the advertisement no. 21 of 1987 which was issued by the Bihar State Subordinate Service Selection Board. The original writ petitioner was appointed and he continued his service but he was found unauthorized absent from 05.03.2001 and he remained absent from service without any leave application or information. He also evaded the election duties which fell during the said period. He was therefore suspended vide order dated 24.04.2001 and later on terminated from service vide order dated 16.08.2003.

5. The original writ petitioner has challenged the termination order in CWJC No. 11526 of 2005 and the Hon'ble Court was pleased to set aside the order of termination, directing for holding /fresh enquiry against the original petitioner. The respondent authority pursuant to the order dated 07.07.2009 passed in CWJC No. 11526 of 2005 holding fresh departmental proceeding against the original petitioner in accordance with law in which the charges against the petitioner were found to be true and thereafter, the order of dismissal was passed on



10.05.2010. The original writ petitioner has challenged the said order in CWJC No. 10776 of 2010 whereby the Hon'ble Court was pleased to set aside the order of dismissal vide order dated 09.11.2011 and directed the respondents to pass fresh order of punishment as they may deem fit and proper in accordance with law.

6. Thereafter, the authority after considering all the facts, the order of compulsory retiring the original petitioner from service has been passed which is impugned in the present writ petition.

7. Learned counsel for the petitioner further submits that the impugned order is bad in law but fairly submits that there is no procedural irregularity in the proceedings. But the order of compulsory retirement is not in accordance with the charges against the petitioner.

8. Learned counsel for the State on the other hand vehemently opposed the prayer of the writ petitioner and submits that the petitioner has not alleged any procedural irregularity in the conduct of the departmental proceeding and pursuant to the order of this Hon'ble Court dated 09.11.2011 passed in CWJC No. 10776 of 2010 the respondents after during consideration and taking a lenient view in favour of the



petitioner has passed the order of punishment from dismissal from service to compulsory retirement and the petitioner was found guilty in the proceeding and the Hon’ble Court in CWJC No. 10776 of 2010 has not found any procedural irregularity in the conduct of the departmental proceeding. The finding in departmental proceeding are to be based on the preponderance of probability and the Hon’ble Court has no reason to interfere with the finding of the enquiry officer holding the petitioner guilty at sub charge no. 1.

9. In view of the aforesaid, it appears that the respondents after due considering the order dated 09.11.2011 passed in CWJC No. 10776 of 2010 had passed the impugned order and there is no infirmity in the impugned order. And there is no merit in the writ petition.

10. Accordingly, this writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.01.2024
Transmission Date	N/A

