

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16565 of 2012

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Devendra Kumar S/o Sri Nandu Rai, R/o Village- Marpa Ishwar Das, P.S-
Majorganj, Distt- Sitamarhi, presently residing at mohalla- Kailashpuri, P.S-
Dumra, Distt- Sitamarhi.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Commissioner, Tirhut Division, Muzaffarpur.
3. The Distt. Magistrate, Sitamarhi.
4. The Additional Collector, Revenue, Sitamarhi.
5. The Deputy Collector, Land Reforms Cum Conduction Officer, Pupri, Distt-
Sitamarhi.
6. The Circle Officer, Runni Saidpur, Distt- Sitamarhi.

... .. Respondents

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Appearance:

For the Petitioner : Mr. Ajay Kumar, Advocate
For the Respondents : Mr. Kumar Kamalnayan, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 23-04-2024

Heard Mr. Ajay Kumar, the learned counsel for the
petitioner and Mr. Kumar Kamalnayan, the learned AC to SC-28
for the State.

2. The present writ petition has been filed for the
following reliefs:

*(i) For a writ of or in the writ of certiorari to
set aside the order of the respondent no. 2,
Commissioner, Tirhut Division, Muzaffarpur, who
vide his order dated 11.06.2012 in appeal case no.
188 of 2011 has conformed the order of Collector,
Sitamarhi dated 06.08.1999, which was
communicated to the petitioner vide memo no. 722
dated 07.08.1999 and has dismissed the appeal
petition filed by the petitioner.*



(ii) for a writ of or in the writ of certiorary to set aside the order dated 06.08.1999 passed by the Collector, Sitamarhi bearing memo no. 722 dated 07.08.1999, who had terminated the petitioner without considering the report of the conducting officer properly.

(iii) For a writ of or in the writ of mandamus directing the respondent no. 2 to consider the grievances of the petitioner sympathetically and after giving opportunity to the petitioner to place his grievances and produce witnesses on point of his termination order and also direct the respondent to pass order according to law and service rule.

(iv) For any other appropriate writ/writs, direction/directions, command/commands, order/orders which your Lordships may deem fit and proper in circumstances of the case.

3. Learned counsel for the petitioner submits that the petitioner was appointed as a Revenue Karmchari in the District of Sitamarhi under the Collector, Sitamarhi on 21.12.1984. On 13.06.1998, the petitioner was deputed at Panchayat Bhawan at Korlahia for the purpose of flood relief. The petitioner came to know that no flood relief work was being done in Korlahia Panchayat as no flood had entered there. So, the petitioner continued to discharge his duty in his Halka office and continued to collect land revenue.

4. On 09.09.1998, petitioner received a letter issued under the signature of respondent no. 6, asking him to show cause as to why the petitioner had not engaged himself in flood relief works under Bisanpur Panchayat. The petitioner replied on



15.09.1998, stating therein that no letter has been received by him, which it has been stated that he has been on deputation at Kolharia Panchayat, so, there is no question of disobedience of the order of the superior authority, but the respondent no. 6 had withheld the salary of the petitioner from June, 1998. The petitioner on 06.10.1998 requested the respondent no. 6 for payment of his dues salary from June, 1998, but the respondent no. 6 had abused the petitioner and had also assaulted the petitioner, for which the petitioner had filed complaint petition before the learned Chief Judicial Magistrate, Sitamarhi bearing complaint case no. 954 of 1998. On 20.10.1998, the respondent no. 3 had transferred the petitioner from Runni Saidpur Circle to Majorganj Circle. The respondent no. 6 had ordered the petitioner to give his charge to one Chandradeo Paswan by 27.10.1998. In the aforesaid order, the Collector had also ordered that in case the petitioner fails to do so, he would be deemed to have been relieved, w.e.f., 06.11.1998. Pursuant to aforesaid order, the petitioner had joined Majorganj Circle Office on 06.11.1998 and Chandradeo Paswan did not take charge from the petitioner, so, the petitioner, prior to joining at Majorganj had sent a letter to the respondent no. 5 to take steps for handing over the charge, but no steps have been taken by the respondent no. 5. The respondent no. 3 on 16.11.1998, had directed the petitioner to go along with the respondent no. 4 to



Runni Saidpur Block on 17.11.1998 and hand over the charge. The petitioner on 17.11.1998, in presence of respondent no. 4 had given charge of revenue to one Chandeshwar Paswan. On 19.11.1998, the respondent no. 4 had served a letter to the petitioner stating therein that he has been suspended with immediate effect in light of the order dated 16.11.1998, passed by the respondent no. 3 and his headquarter was fixed at Pupri Circle.

5. Learned counsel for the petitioner submits that the petitioner had challenged the order of suspension before this Hon'ble Court in CWJC No. 10910 of 1998, only on the point that prior to suspension order, the petitioner did not get copy of the charges. When the matter was pending before this Court for consideration, the petitioner was served with the chargesheet, duly signed by the respondent no. 6. The petitioner had given reply to show cause on 23.04.1999 stating everything in detail, but no legal evidence was available on record and no witnesses were examined in presence of petitioner. The enquiry officer on the basis of presumption, conjectures and surmises submitted enquiry report to the respondent no. 3 on 22.05.1999. The respondent no. 3 issued second show cause notice on 24.06.1999 stating therein in detail the cause of differ with the view of the conducting officer. The respondent no. 3 had given time to the petitioner to give reply to second show cause by 05.07.1999, but the said letter was never



been supplied to the petitioner and without giving opportunity, the respondent no. 3 had passed the order dated 07.08.1999, dismissing the petitioner in respect of charges levelled against him without giving opportunity of hearing to the petitioner. The petitioner had challenged the order dated 07.08.1999 before the appellate authority, i.e., respondent no. 2. The respondent no. 2 had passed the order dated 29.09.2000, whereby the appeal preferred by the petitioner against the order of punishment dated 07.08.1999 passed by respondent no. 3.

6. Learned counsel for the petitioner submits that the petitioner had approached this Hon'ble Court challenging the order dated 07.08.1999 passed by respondent no. 3 and order dated 29.09.2000 passed by respondent no. 2 in CWJC No. 11830 of 2000. The Hon'ble Court after hearing the parties has been pleased to allow the writ application on 01.12.2006 and Hon'ble Court has been pleased to quash the order dated 29.09.2000 passed by respondent no. 2 and the matter is remanded to the respondent no. 2 to pass a fresh order in accordance with law after giving opportunity to the petitioner or his counsel to press his point before him in the course of personal hearing. Learned counsel for the petitioner submits that pursuant to the direction of the Hon'ble Court, the petitioner had filed a petition along with the ordersheet of this Hon'ble Court before the respondent no. 2 on 23.12.2006



along with all the relevant documents and point-wise reply of the charges levelled against him. The respondent no. 2 without considering the grievances of the petitioner had passed the final order on 29.09.2008, stating therein that there is no illegality in the order of the respondent no. 3 and he had upheld the order of the respondent no. 3 on point of termination of the petitioner.

7. Learned counsel for the petitioner submits that petitioner had challenged the order dated 29.09.2008 passed by respondent no. 2 in CWJC No. 8558 of 2009. The Hon'ble Court after hearing the parties has been pleased to set aside the order dated 29.09.2008 and directed the respondent no. 2 to grant personal hearing and passed a final order and the respondent no. 2, without complying with the aforesaid order, had passed an order on 11.06.2012 against the petitioner and he has confirmed the termination order passed by respondent no. 3 in appeal case no. 188 of 2011, whereby he has confirmed the order dated 06.08.1999.

8. Learned counsel for the petitioner submits that it appears from the aforesaid facts that the charges levelled against the petitioner were vague, charge memo did not contain the list of witnesses or evidence to be led in support of the charges and the same was supplied to the petitioner belatedly after submission of show cause by the petitioner. The authority had given double



punishment to the petitioner. The first punishment is that the department had stopped his salary w.e.f., 1997 and the second punishment is that respondent no. 2 has affirmed the order of the respondent no. 3, whereby the petitioner had been terminated from service.

9. Learned counsel for the State submits that respondent no. 2 heard the petitioner very sympathetically in appeal case no. 188 of 2011 and after giving personal hearing to the petitioner and perusing the records of the lower Court, had been pleased to confirm the order of respondent no. 3 dated 06.08.1999 and accordingly, the respondent no. 2 had dismissed the appeal petition filed by the petitioner with the finding that the petitioner is too negligent, in-disciplined and irresponsible in discharging his duty as a Halka Karmchari and hence, the order of termination from the service of petitioner is justified and bare perusal of the impugned order it appears that the respondent no. 2 after due consideration and the department had made available all the relevant documents to the petitioner and the respondent no. 3 has found that out of seven charges, five charges have been proved upon the petitioner and respondent no. 2 had passed a detailed order and he has considered all aspects which the petitioner had raised in his memo of appeal and there is no infirmity in the appellate order as well as no infirmity in the departmental proceeding.



10. Having regard to the submissions made by the parties, it appears that the respondent no. 2 has passed the order in accordance with law and he has complied with the order of this Hon’ble Court as directed in CWJC No. 10910 of 1998, CWJC No. 11830 of 2000 and CWJC No. 8558 of 2009 and there is no infirmity in the impugned order.

11. In view of the aforesaid, there is no merit in the writ petition and the writ petition stands dismissed accordingly.

(Rajesh Kumar Verma, J)

Shahnawaz/-

AFR/NAFR	NAFR
CAV DATE	NA
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