

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8356 of 2024

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Raj Kumar son of Sri Baij Nath Vaish, A/p Principal Judge Khagaria (u/suspension), Permanent R/o, A-611, Sonal Apartment, George Town, Allahabad (U.P.) - 211002.

... .. Petitioner/s

Versus

1. The High Court of Judicature at Patna through The Registrar General.
2. The Registrar General, The High Court of Judicature at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate
		Mr. Manini Jaiswal, Advocate
For the Respondent/s	:	Mr. Piyush Lall, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 23-07-2024

The petitioner who was serving as a Principal Judge, Family Court, Khagaria was placed under suspension by reason of serious allegations raised against him and a chargesheet was issued as is seen from Annexure-P/8. The departmental enquiry initiated is still pending against him which enquiry was initiated after calling for his explanation and finding it to be not satisfactory.

2. Learned Counsel for the petitioner has argued



that Charge No. 2 and 3 could not be maintained. It is pointed out that the petitioner had been appointed as a Munsif in the year 1995, promoted as Sub-Judge in the year 2009, then an Additional District & Sessions Judge in 2014 and as a District & Sessions Judge in the year 2020. If at all the allegations were true the fact that the petitioner had been promoted would show that the administration had condoned such actions. The present enquiry is a retaliatory measure.

3. Learned Standing Counsel for the High Court pointed out that the petitioner has retired on 30.05.2024 and the enquiry is being continued. The petitioner has been accused of very serious charges which led to the death of the Personal Security Officer of the petitioner.

4. The first charge is with respect to the death of the Personal Security Officer of the petitioner against which Police Case No. 157 of 2022 has been registered. The petitioner also has contended in the writ petition that the disciplinary enquiry should await the culmination of the trial in the criminal case. It is trite that in a criminal case, conviction can occur, only if the guilt is proved



beyond reasonable doubt; whereas in a domestic enquiry it is the preponderance of probability as would be discernable from the evidence led at the enquiry.

5. The allegation which led to Charge No. 1 is that the petitioner continuously tortured the Home Guard who was his Personal Security Officer and forced him to perform household chores and when the Personal Security Officer objected to it he was thrashed mercilessly which lead to his death by reason of a fatal head injury suffered at the hands of the petitioner. There is absolutely no reason why inquiry should be kept in abeyance till the criminal proceedings are completed; since the charge is not merely of a culpable homicide not amounting to murder.

6. As far as Charge No. 2 and 3, it is with respect to the delinquent officer's conduct when he was working as Judicial Officer in different capacities and specifically with respect to the grant of bail while he was working as Judicial Magistrate, 1st Class, Nalanda and Additional District & Sessions Judge, Bettiah. We would not observe anything on the merits of the charge or the sustainability of the same; which the petitioner would be entitled to agitate



before the Enquiry Officer in the departmental proceedings. We also take into account the fact that even the findings in the enquiry are not conclusive and it is for the disciplinary authority to decide on the guilt or otherwise of the delinquent officer; before which authority also the petitioner could take the same plea as taken in the writ petition. At this stage, it would be premature to find that the charges are not called for and we restrain ourselves from making any observation, lest it prejudice the petitioner or impact the presentation of evidence by the High Court, before the Enquiry Officer.

7. We find no reason to entertain the writ petition and dismiss the same *in limine*.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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