

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1335 of 2021

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Ajay Kumar Son of Late Ramdeo Prasad, Resident of Mohalla - East Untta near old DEO office PO and PS - Jehanabad RS, District - Jehanabad, presently posted as Head Master Upgraded Middle School, Muther, Lodipur, Block - Jehanabad, District - Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Addl. Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Primary Education, Department of Education Bihar, Patna.
3. The Regional Deputy Director of Education, Magadh Division, Gaya.
4. The District Education Officer, Jehanabad.
5. The District Programme Officer (Estab), Jehanabad.
6. The District Programme Officer, Mid Day Meal Scheme, District - Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar, Adv.
For the State	:	Mr. Prabhat Ranjan Singh, A.C. to AAG-15
For the MDM	:	Mr. Girijish Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 11-07-2024

Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the respondent no.6.

2. By filing the present writ application, the petitioner has prayed for issuance of appropriate writ/writs, order/orders, direction/directions to the respondent Authority for the following reliefs:

(i) For quashing of column (1) of the letter dated 09-12-2016 contained in Memo No.



1395 issued under the signature of the respondent District Programme Officer (Estab.), Jehanabad.

(ii) For further direction to the respondent authorities that after quashing of aforesaid letter, consequential benefits arising out of the same, be granted to the petitioner as he is presently suffering from recurring monetary loss due to withholding of one annual increment with cumulative effect.

(iii) For any other relief/reliefs for which the petitioner is found entitled in the facts and circumstances of the present case.

3. Learned counsel for the petitioner submits that the petitioner is presently working as a Head Master in Upgraded Middle School, Muther, Lodipur under the district of Jehanabad.

4. Learned counsel further submits that on 11.02.2016, the District Programme Officer, Primary Education and Sharv Shiksha Abhiyan, Jehanabad inspected the Upgraded High School, Bazar Tali Block-Jehanabad, where the petitioner was earlier posted as Head Master. After inspection, the petitioner was served a show-cause notice dated 11.02.2016 contained in letter no. 314 by the respondent District Programme Officer, Jehanabad. (Annexure-1 of the writ application)

5. Pursuant to the aforesaid show cause notice, the petitioner has submitted his reply within the stipulated time



mentioning therein about the circumstances of the school on the day of inspection by enclosing some relevant documents. (Annexure-2 (series)).

6. Despite submission of reply to the show-cause notice, the respondent District Programme Officer (Eastb.), Jehanabad, without considering and appreciating the reply submitted by the petitioner, issued letter dated 20.02.2016 contained in Memo No. 555 by which the petitioner was put under suspension and decided to initiate disciplinary proceeding against him. The petitioner was served with a memo of charge which is contained in PRATRA-‘KA’ along with order of suspension (Annexure-3 to the writ application). For the aforesaid purpose, an Inquiry Officer as well as a Presenting Officer was also appointed. The Inquiry Officer has submitted the inquiry report dated 31.08.2016 contained in Letter No. 722 to the District Programme Officer (Eastb.), Jehanabad (Annexure-4) and considering the same, the respondent District Programme Officer (Eastb.), Jehanabad issued letter dated 09.12.2016 contained in Memo No. 1395 by which the petitioner has been awarded with punishment of withholding of one annual increment with cumulative effect and further it was mentioned that the total salary for the



period of suspension would be given to the petitioner and he was transferred to another school without his consent. (Annexure-5 of the writ application)

7. Learned counsel for the petitioner submits that after passing of order after conclusion of the departmental proceeding, the act of the respondent suffers from the biasness and arbitrariness as the petitioner was still put under the departmental proceeding and was awarded with major punishment. It is further submitted that the petitioner was neither served with a copy of inquiry report issued by the Inquiry Officer after conclusion of the proceeding nor any show cause/second show cause was ever given to him before passing the order impugned giving major punishment to enable him to place his defence before the respondent authority, which shows absolute violation of principles of natural justice. He further submits that after four years of passing of final order, a modification in the order was issued by the authority, which reflects the biasness and negligent act of the concerned authority towards an employee.

8. Learned counsel further submits that the petitioner got the inquiry report submitted by the Inquiry Officer in course of departmental proceeding under Right to Information



Act and thereafter filed an appeal before the Appellate Authority i.e. Regional Deputy Director of Education, Magadh Division, Gaya on 28.12.2016 (Annexure-6 of the writ application) mentioning therein his ground along with relevant documents for kind consideration of the Appellate Authority against the order dated 09.12.2016 contained in Memo No. 1395 issued under the signature of respondent District Programme Officer (Eastb.), Jehanabad, which was partly allowed vide memo no. 280 dated 18.06.2021 by which the Regional Deputy Director of Education Magadh Division, Gaya charged the punishment of column-1 of the letter no.1395 dated 09.12.2016 and diminished the punishment as the increment stopped only for a year with non-cumulative effect. (Annexure-P/9 of the I.A. petition)

9. Per contra, learned counsel for the respondent no.6 submits that in the course of concluding the departmental proceeding, sufficient opportunity was given to the petitioner, but he did not give any positive document in his favour to discard the charges mentioned in prapatra "K" (Annexure-3 of the writ application). Hence, the claim of the petitioner that no opportunity has even been granted to him for submitting its reply before passing the final order is totally false.



10. Considering the rival submissions of the parties as well as the material available on record, I do not find any merit in the present writ application. Accordingly, this writ application stands dismissed.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2024
Transmission Date	NA

