

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13482 of 2019

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Basant Kumar Singh Son of late Shiv Kumar Singh, Resident of Flat No. 202,
Lalita Apartment, Bangali Road, Mithapur, P.O. Mithapur, P.S. Jakkanpur,
District- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fisheries Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Animal and Fisheries Resource Department, Government of Bihar, Patna.
3. Director, Animal and Fisheries Resources Department(Dairy Development Directorate), Bihar, Patna.
4. Deputy Director(HQ), Dairy Development Directorate, Bihar, Patna.
5. Special Secretary, Animal and Fisheries Resources Department (Dairy Development), Bihar, Patna.
6. Deputy Secretary Cum Inquiry Officer, Animal and Fisheries Resource Department, Bihar, Patna.
7. Under Secretary, Animal and Fisheries Resources Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Advocate Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Md.Khurshid Alam (AAG-12) Mr. Arun Kumar Bhagat, AC to AAG-12

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 23-04-2024

In the order dated 15.01.2024, a letter contained in
Memo No.191 has wrongly been typed in place of Memo
No.199, as such, it is hereby modified.

2. Heard learned counsel for the petitioner and counsel
for the State.

3. The present writ petition has been filed for the



following reliefs:-

(i). To issue an appropriate writ / order / direction, in the nature of certiorari for quashing the Order dated 18.10.2016 (Annexure-11) passed by the Under Secretary, Animal & Fisheries Resource Department, Bihar, Patna by which the entire pension of the petitioner has been confiscated / withheld and the Director has been empowered to recover the unaccounted amount from the petitioner.

(ii). To issue an appropriate writ / order / direction, in the nature of certiorari for quashing the Order dated 08.01.2018 (Annexure-12) passed by the Under Secretary, Animal & Fisheries Resource Department, Bihar, Patna, by which the Review application of the petitioner has been rejected.

(iii). To issue an appropriate writ / order / direction, in the nature of mandamus commanding the Respondents to make payment of arrears of salary and also to grant other consequential benefits.

(iv). To any other relief or reliefs for which the petitioner is found to be entitled in the facts and circumstances of the case.

4. Learned counsel for the petitioner submits that the petitioner was posted as Diary Development Officer at Katihar and directed to file a show cause vide letter dated 10.04.2013 in



which it has been alleged that Rs. 1,59,53,932/- was withdrawn by the petitioner when he was posted as Dairy Development Officer, Sitamarhi, and account for the expenditure was not available and also with regard to Rs. 4.72 lakhs which was withdrawn to construct Milk Refrigeration Centre, Araria. Counsel submits that in pursuance of letter dated 10.04.2013 he has filed his reply on 17.05.2013 and in response thereof charge memo has been issued. Petitioner has defended himself before the enquiry officer and the enquiry officer has found charge Nos.1, 2, 3 and 6 not proved, charge No.5 proved and for charge No.4 the amount adjustable or recoverable in case of non-adjustment. Counsel submits that the disciplinary authority issued a show cause letter. In response thereof the petitioner has filed his reply and thereafter another enquiry was made on the point of adjustment of the money accepted by him as the documents/accounts were available in the department itself. Learned counsel submits that about the unadjusted amount, the report has come that only Rs. 3,89,500/- has been handed over to the petitioner which is yet to be adjusted. Counsel submits that in the punishment order the specific pleading has been made by the department that the petitioner has been served second show cause vide letter no. 372 dated 28.05.2014, but the petitioner has not submitted his defence and in result the Disciplinary Authority has



found unadjusted amount towards the petitioner is Rs.13,34,000/-. Counsel for the petitioner submits that the second show cause letter dated 28.03.2014 has been duly answered by the petitioner but in the punishment order the authorities have indicated in paragraph-5 that letter No. 372 dated 28.05.2014 has also been served. The petitioner has completely denied the same. He submits that this order is absolutely illegal as no such opportunity to defend letter No. 372 dated 28.05.2014 has been made to him, as this letter never served on him. Counsel submits that in this regard there is specific pleading made by him in paragraph 17 of the writ petition. But the State is completely silent on the said specific averment made by the petitioner in his both counter affidavit and supplementary counter affidavit. Learned counsel submits that since the letter, on the basis of which the punishment has been imposed, has not been served, it means that the petitioner has not been provided any opportunity to defend and it is in gross violation of natural justice and the procedure established by law.

5. Learned counsel for the State, on the other hand, submits that counter affidavit and supplementary counter affidavit has been filed, particularly, in the light of the specific direction made by this Hon'ble Court on 15.01.2024 in which stand has been taken by the State that still Rs. 13,34,000/- is



unadjusted against the petitioner.

6. Upon perusal of the documents and hearing the pleading, it transpires to this Court that in the impugned order stand taken by the respondent that letter No. 372 dated 28.05.2014 has been served, whereas stand of petitioner that it has not been served and there is no response of the State in their both counters in this matter, this Court is of the firm view that the said letter has not been served and, as such, this Court is of the view that the order impugned contained in Memo No.354, 18.10.2016 is in gross violation of natural justice and, therefore, this order and subsequent order dated 08.01.2018 passed by reviewing authority are hereby set aside with liberty granted to the State-respondents that the State-respondents shall issue letter No.372 dated 28.05.2014 upon the petitioner afresh and the petitioner shall file reply within four weeks thereafter and upon which the respondent shall pass order afresh within 60 days.

7. With this direction, the writ petition is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.04.2024
Transmission Date	NA

