

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18050 of 2021

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Pramod Kumar Son of Sri Mundrika Ram, resident of Flat No. 502, Janki Lalan Apartment, Abhiyanta Nagar, Ranjan Path, Bailey Road, P.S.-Rupaspur, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary.
2. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Bihar Public Service Commission through its Secretary.
4. The Under Secretary, General Administration Department, Govt. of Bihar, Patna.
5. The District Magistrate, Rohtas at Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Chitranjan Sinha, Advocate (J) Mr. Alok Ranjan, Advocate Mr. Majid Mahboob Khan, Advocate
For the Respondent/s	:	Mr. Manoj Mishra, AC to GP-4

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 3 10-05-2024 The petitioner is a member of Bihar Administrative Service, he was appointed as Deputy Collector on 29-05-1995. During the paddy procurement year 2011-12, the petitioner was posted as District Supply Officer in the district of Rohtas at Sasaram. In July, 2013, the petitioner was transferred as District Supply Officer, Saran at Chapra. While working as District Supply Officer, Rohtas at Sasaram, the District Magistrate, Rohtas, reported certain allegations relating to paddy procurement for the financial year 2011-12 against the petitioner to the Food & Consumer Protection Department, Govt. of Bihar.



The Food & Consumer Protection Department reported the matter to the General Administration Department, Govt. of Bihar, which became the basis for framing of memo of charge against the petitioner. The General Administration Department vide its memo no. 7445 dated 20-05-2015 put the petitioner under suspension and vide Resolution contained in memo no. 7446 dated 20-05-2015, a departmental proceeding was initiated against him. Memo of charge was framed against the petitioner which are as follows:

a) In the paddy procurement year 2011-12, CMR procured from various mills were not provided to the Food Corporation of India. A faulty report regarding remaining CMR was submitted, firstly it was reported that 45000 MT of CMR is remaining. which was later on corrected to 50000 MT. The Sub-Divisional Officer after verification submitted his report that the District Manager, Bihar State Food & Civil Supplies Corporation has submitted wrong report with regard to some of the mills.

(b) Such rice mills were also proposed to be selected for milling, which were found to be non-existent or in-operational. Presenting wrong figures.

(c) Irregularities in mill tagging

(d) The procurement of paddy was much behind the target and on the other hand, no speedy action was taken on the information provided by the Railways regarding transportation of rice and paddy



outside the State. No immediate action was taken on account of absence of procurement centre incharge of Tilauthu and Belwaiya.

(e) Irregularity in use of gunny bag

(f) Disobedience of order

(g) Delayed presentation of letters

(h) Tendency of refusing accountability

2. The learned advocate for the petitioner submits that while exercising quasi-judicial power, the disciplinary authority was bound to mention the defence raised by the petitioner in his show cause which would have been material for consideration before the authority and thereafter, by a reasoned order either allowed or rejected with the fact, if the finding of the disciplinary authority is devoid of any reason, the order passed by the disciplinary authority suffers from non-application of mind and arbitrariness and as such is not sustainable in law.

3. It is submitted by the learned advocate for the petitioner that the District Magistrate was satisfied with the explanation submitted by the petitioner with regard to charges Nos.1, 3, 6 & 7. It was held that 5th charge was partially proved against the petitioner. The 5th charge relates to procurement of gunny bag for storage of CMR. It is the explanation of the petitioner that the gunny bag was being collected by the Food and Supplies Department. He had no role in procuring the



gunny bag. The officers in Food and Supplies Department can only say as to why on the Gunny Bags the names of other States were printed. In support of his contention he refers to a decision of this Court passed by a Coordinate Bench in ***Smt. Abha Kumari Vs. State of Bihar & Ors.*** reported in ***2023 (6) BLJ 341***, it is held in the above decision that if the order passed by the disciplinary authority is devoid of any reason or passed without any evidence. The order suffers from no evidence the petitioner cannot be punished with any penalty under such facts and circumstances.

4. The learned advocate on behalf of the State, on the other hand, has supported the decision passed by the Divisional Commissioner on the ground that the petitioner was punished for minor penalties.

5. It is not the case to adjudicate as to whether the petitioner was liable to major penalty or minor penalty. The petitioner has filed the instant writ petition alleging inter-alia that the impugned order dated 10.01.2017 issued by the Under Secretary to the Government, General Administration Department, Government of Bihar, Patna is bad in law and liable to be quashed.

6. The Divisional Commissioner also held that there



was certain irregularities in procurement of Gunny Bags for storage of CMR. However, such finding was not based on evidence. It is evident that the Commissioner without taking into consideration or discussing show cause reply of the petitioner, has mechanically passed the impugned order. The impugned order does not contained any discussion as to whether it was the responsibility of the petitioner to procure Gunny Bags or not for storage of CMR. Petitioner's reply to the second show cause notice was also not considered by the Commissioner. In this case, the order of punishment does not disclose application of mind as per Rule 19 of the Bihar CCA Rules, 2005, it is incumbent upon the authorities concerned to consider the representation made by the employees as such consideration means a conscious application of mind and also a consideration of the explanation given by the employees in an objective basis. Since the impugned decision is devoid of any explanation and passed without consideration of the statement of defence by the petitioner, the punishment of withholding of three increments with cumulative effect issued vide Memo No.224 dated 10.01.2017 is quashed.

7. The petitioner is entitled to get the full pay and allowances during the period of his suspension.



8. The instant writ petition is accordingly, allowed on contest. However, there shall be no order as to cost.

(Bibek Chaudhuri, J)

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