

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11213 of 2012

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Satish Kumar Sinha S/O Late Mahendra Prasad Sinha R/O Mohalla- West
Anandpuri, Boring Canal Road, P.S.- S.K. Puri, Post- Boring Road, District-
Patna, Presently Posted As Assistant Kendriya Nirupan Sangathan Upbhag,
Road Construction Department, Bihar, Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Road Construction Department,
Bihar, Patna
2. The Deputy Secretary Vigilance Road Construction Department, Bihar,
Patna
3. The Additional Secretary Road Construction Department, Bihar, Patna
4. The Joint Secretary Road Construction Department, Bihar, Patna
5. The Engineer-In-Chief R.C.D., Bihar, Patna
6. The Section Officer Section-4, 10 Road Construction Department, Bihar,
Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Choudhary, Advocate
For the State	:	Mr. Sudhanshu Bhushan, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 26-02-2024

Heard Mr. Ramesh Kumar Choudhary, learned
counsel for the petitioner and Mr. Sudhanshu Bhushan, learned
A.C. to GP-7 appearing on behalf of the State.

2. The present writ petition has been filed for
quashing the Memo No. 3929 dated 09.04.2012 passed by the
respondent no.2 by which the respondent no.2 has ordered that
the petitioner be not payable anything except subsistence
allowance. However, the aforesaid period has been counted for



the purpose of pension and other works.

3. Learned counsel for the petitioner submits that the petitioner was appointed as Assistant in Kendriya Nirupan Sangathan, Upbhag, Road Construction Department, Bihar, Patna in the month of October, 2007. On 23.07.2010, the respondent no. 5 framed a charge against the petitioner alleging therein that the petitioner is taking official work regularly of official file and section from outside person, namely, Rajesh Kumar contrary to Government Employee Character Rules, 1976, provides under Rule-III and after the framing of the charge against the petitioner, the petitioner was put under suspension by the respondent no.4 and thereafter departmental proceeding was initiated against the petitioner and a show cause notice was asked from the petitioner and the petitioner has filed his reply to show cause in the present matter on 10.08.2010 showing his innocency and the enquiry report was submitted on 15.09.2010 establishing the allegation against the petitioner that the petitioner intentionally taken departmental work from outsider on peon file. On the basis of the aforesaid enquiry report, the suspension of the petitioner was revoked with two punishments thereafter the petitioner has filed an appeal before the respondent no. 1 against the order dated 28.12.2010 but the



respondent no. 2 has rejected the appeal of the petitioner and confirming the two punishments which was imposed upon the petitioner vide order dated 30.05.2011. When the petitioner had approached this Hon'ble Court in C.W.J.C. 11407 of 2011 and which was disposed of vide order dated 16.01.2012 with the following observation of the writ petition;

That the order of punishment dated 18.11.2010 as affirmed in appeal on 30.05.2011 shall be no impediment at all in re-consideration of the quantum of punishment, if the petitioner represents on issues of Article-14 of the Constitution with regard to that meted out to Shri Bidya Bhushan Singh and Pramod Kumar in like circumstances.

Pursuant to the aforesaid direction/observation of this Hon'ble Court, the petitioner had filed a representation on 24.01.2012 and in compliance of the order dated 16.01.2012, the department considered the same and the same was disposed of vide order dated 09.04.2012 awarding the punishment of stoppage of two increments with non-cumulative effect and the punishment of censor awarded vide Order No. 338 dated 18.10.2010 (*Annexure-4*) was withdrawn.

4. Learned counsel for the petitioner further submits that only the petitioner was not taking the official work from



alleged Rajesh Kumar, rather many others employees were taking official work from the Rajesh Kumar which is evident from an application filed by the Rajesh Kumar before the Secretary of the department on 10.06.2010 and the officials had adopted biased attitude with the petitioner in framing the charge and putting under suspension and imposing two punishments against the petitioner and same is not sustainable in the eyes of law because no action against another employee, namely, Pramod Kumar and Vidya Bhushan Singh has been taken by the department but the petitioner has been penalised using colourable exercise of power and the department in case of similar situated persons, namely, Vidya Bhushan Singh and Pramod Kumar the authority has taken decision to stop two increments with non-cumulative effect but in case of the petitioner the department had imposed two punishments (1) censor (2) stop two increments with non-cumulative effect.

5. Learned counsel for the State has field a counter affidavit and supplementary counter affidavit submitting that the department in compliance with order dated 16.01.2012 passed in C.W.J.C. No. 11407 of 2011, the representation of the petitioner was duly considered and affirming the punishment of stoppage of two increments with non-



cumulative effect. However, the other punishment of censor was withdrawn and with regard to the petitioner has raised the issue of discrimination made to him vis-a-vis Mr. Pramod Kumar and Mr. Vidya Bhushan Singh both were posted as Assistant in the department and were subjected to show-cause for taking the services of the outsider, namely, Rajesh Kumar. The said Rajesh Kumar has submitted a letter dated 10.06.2010 stating therein that the petitioner was taking work of entering the file from him since 2-3 years and he also stated that he also did some work of Pramod Kumar and Vidya Bhushan Singh both Assistant of the Department. From a bare perusal of the letter dated 10.06.2010 of the Rajesh Kumar (*Annexure-9 of the writ petition*) which suggests that the allegations against the petitioner was specific that he used the services of the outsider of entering the file which is not permissible for any government servant and accordingly the departmental proceeding was initiated against the petitioner and from a bare perusal of the *Annexure-9* the allegations against the other two employees were non-specific. However, a show cause notice was also issued to them and after considering the reply, they were inflicted with punishment of stoppage of two increments with non-cumulative effect. Since,



the petitioner was found guilty in the departmental proceeding and it was decided that he will be paid only subsistence allowance for the period of suspension but the period will be counted for other purposes.

6. In view of the aforesaid, there is no infirmity in the impugned order and the order was passed in accordance with law and there is no discrimination with the other similarly situated persons and after due consideration the punishment of censor was withdrawn against the petitioner.

7. There is no merit in the writ petition. Accordingly, the same is dismissed as being devoid of merit, however, there will be no order as to costs.

(Rajesh Kumar Verma, J)

ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
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