

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5449 of 2018

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Asha Kumari Wife of Sri Ram Newaj Ram, Resident of Village+P.O.-
Dahiwar, P.S.- Buxar, District- Buxar.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
3. The Director, I.C.D.S., Social Welfare Department, Government of Bihar, Patna.
4. The Joint Secretary, Social Welfare Department, Government of Bihar, Patna.
5. The Training Officer-cum-Inquiry Officer, I.C.D.S. Directorate, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr. Prashant Pratap, GP-2

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 26-02-2024

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

2. The present writ petition has been filed for quashing and setting aside the order contained in Memo No.2082 dated 18.05.2017, which is the punishment order passed by the Disciplinary Authority as well as for quashing and setting aside the order contained in letter No.339 dated 12.01.2018 whereby the appeal/review filed by the petitioner has been rejected.

3. Learned counsel for the petitioner submits that



the petitioner was appointed on the post of Child Development Project Officer after having succeeded in a selection process conducted by the Bihar Public Service Commission on 17.10.2000. Her first posting was at Khaira Block in the district of Jamui. During her posting at Dhanarua, Patna, the departmental proceeding was initiated vide Memo No.5941 dated 27.12.2012 (Annexure-P/1). Charge sheet was also enclosed along with list of evidence with the aforesaid letter. Learned counsel for the petitioner submits that in compliance of the said letter/charge memo, the petitioner has participated in the enquiry proceeding and tried to defend herself. Counsel has specifically pleaded that copy of the enquiry report has not been provided but 2nd show-cause notice was called for from the petitioner vide letter No.1746 dated 09.04.2014. Reminder to this effect was also issued to the petitioner on 16.10.2014. The petitioner was not served the enquiry report. In the second show cause, the petitioner has raised all the points vide letter No. 370 dated 08.11.2016 in which he has denied all the charges. Counsel submits that petitioner was imposed punishment inflicting punishment of fixation of pay-scale in the lowest stage and withholding three increments without cumulative effect. He submits that no reason was assigned but after the final order



the petitioner has obtained the enquiry report and challenged the same before in review but the review petition of the petitioner has been rejected. Thereafter, the petitioner has filed the present writ petition.

4. Learned counsel for the State submits that every process as laid down under the CCA Rules, 2005, have been followed and final order has been passed. Counsel submits that it transpires from the pleadings of the State that at the time of second show-cause copy of the enquiry report has not been served.

5. Learned counsel for the petitioner, in response thereof submits that the State has conducted this enquiry in perfunctory manner as well in gross violation of Rule 17(5)(a) and (c) and subsequently violated the rules of natural justice by not providing the enquiry report and demanding second show-cause.

6. After hearing the parties and on perusal of the record, it transpires that Annexure-P/1 is the alleged charge memo, in which it was directed to file the written statement before the enquiry officer without providing enquiry report, which is in gross violation of Rule 17(4) and 17(5) of the CCA Rules, 2005. Subsequently, enquiry report is necessary to be



provided to file the second show-cause which has not been provided to the petitioner and without providing the enquiry report the final order has been passed.

7. In this view of the matter, it transpires to this Court that there is strong procedural lapse made in the proceeding and, as such, the original order contained in Memo No.2082 dated 18.05.2017 and the appellate/review order contained in letter No.339 dated 12.01.2018 are hereby set aside. The petitioner shall be at liberty to initiate the proceeding afresh in the light of CCA Rules, 2005 or in the light of the time being enforce.

8. Learned counsel for the petitioner lastly submits that during pendency of the writ petition petitioner retired. In this view of the matter the authority shall decide about his salary and pension or to initiate and conclude the proceeding within six months from the date of receipt/production of a copy of this order.

9. Accordingly, this writ petition is allowed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2024
Transmission Date	NA

