

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1152 of 2020

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Prem Chandra Prasad Son of Ramlachhan Prasad Resident of Chhatrapatti,
Police Station- Narayan Sukul, District- Gopalganj. at present posted as
District Manager, Bihar State Food and Civil Supplies Corporation, Sasaram.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Planning and Development Department,
Government of Bihar, Patna.
3. The Director, Planning and Development Department, Patna.
4. The District Development Commissioner, Siwan.
5. The Additional Collector-Cum- Conducting Officer, Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nirmal Kumar, Advocate
For the Respondent/s : Mr. Sudhir Kumar Upadhyay, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 25-01-2024

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

2. Learned counsel for the petitioner submits that
the present writ petition has been filed to quash the order dated
04.12.2017 passed by respondent No.3 the Disciplinary
Authority as well as to quash the order dated 22.05.2018 passed
by respondent No.2 the Appellate Authority by which the order
passed by Disciplinary Authority dated 04.12.2017 has been
affirmed in most arbitrary manner and in complete violation of



natural justice.

3. Learned counsel for the petitioner submits that departmental proceeding has been initiated in which the petitioner has participated. Upon participation counsel submits that neither the enquiry report nor the second show-cause submitted and the final order of punishment has been passed upon him without serving the enquiry report and second show-cause. Counsel submits that the punishment imposed comes within the purview of major punishment under the Bihar Government Servant (Classification, Control and Appeal) Rules, 2005, wherein service of enquiry report and second show-cause is mandatory. As such, the punishment order passed by the Disciplinary Authority dated 04.12.2017 as well as appellate order dated 22.05.2018 are bad-in-law and fit to be set aside.

4. Learned counsel for the State, on the other hand, submits that the counsel for the petitioner has not correctly been intimated by the petitioner to him as the copy of the disciplinary proceeding as well as second show-cause both were provided to the petitioner. Counsel submits that vide Annexure-F to the counter affidavit, the copy of the enquiry report as well as second show-cause has been issued to the petitioner vide Letter



No.126 dated 15.06.2017. Counsel further submits that in compliance of specific direction of this Court about submitting the proof of service of second show-cause and enquiry report counsel submits that it has been specifically pleaded in the supplementary counter affidavit filed by the respondent that the second show-cause notice as well as the enquiry report has been served to the counsel for the petitioner and with regard to service of proof, the counsel submits that there are three documents which are very much relevant. The first document is the letter of the petitioner dated 03.06.2017. In the said letter it has nowhere mentioned that he has neither received the enquiry report nor he has received the second show-cause. Similarly, in the review memo, no such plea has been taken by the petitioner that enquiry report and second show cause has not been received by him. Further the counsel submits that by way of second supplementary affidavit the proof of dispatch register by which the said letter was sent through registered post with acknowledgment due dated 20.06.2017 has been attached. Counsel submits that in the light of the three said documents the plea taken by the petitioner that he has neither received the enquiry report nor second show-cause and, therefore, it is gross violation of natural justice is not sustainable.



5. Upon hearing the argument of the parties and going through the records it transpires to this Court that the plea that the enquiry report and second show-cause has not been sent and served to the petitioner and, therefore, violation of natural justice has been caused is not sustainable in the eye of law as well as the facts of this case. Therefore, this Court is not inclined to interfere in this writ petition on the grounds raised by the petitioner and, hence, this writ petition is dismissed.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.01.2024
Transmission Date	NA

