

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12432 of 2021

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Ramjee Prasad @ Ramji Prasad, Son of Late Bhatu Prasad, Resident of
Mohalla- Naya Tola, Madhopur, P.S. and P.O.- Bakhtiyarpur, Distt- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Rural Works Department,
Government of Bihar, Patna.
2. The Engineer-in-Chief, Rural Works Department, Government of Bihar,
Patna.
3. The Joint Secretary, Rural Works Department, Government of Bihar, Patna.
4. The Additional Secretary, Rural Works Department, Government of Bihar,
Patna.
5. The Deputy Secretary, Rural Works Department, Government of Bihar,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Choudhary, Sr. Advocate Mr. Akshansh Ankit, Advocate
For the Respondent/s	:	Mr. Manish Kumar, AC to AAG-6

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 25-02-2025

Heard Mr. Ashok Kumar Chaudhary, learned Senior
Advocate, duly assisted by Mr. Akshansh Ankit, learned
Advocate for the petitioner and Mr. Manish Kumar, learned
Advocate for the State.

2. The petitioner is aggrieved with the order dated
09.06.2020, as contained in Memo No. 1057, whereby the
petitioner has been inflicted with the punishment of dismissal in
terms with the prescription under Rule 17 of the Bihar Civil



Services (Classification, Control and Appeal) Rules, 2005.

3. During the pendency of the writ petition, the appeal preferred by the petitioner also came to be rejected by the appellate authority, as contained in Memo No. 1210 dated 02.09.2021. The order passed by the appellate authority was put to challenge in I.A. No. 1 of 2021. In response to the aforesaid interlocutory application, a counter affidavit has also been filed on behalf of respondent nos. 1 to 5.

4. Learned Senior Advocate for the petitioner referring to the averments made in the writ petition has contended that the petitioner was initially appointed as a Junior Engineer in the year 1979 in the Water Resources Department. After serving in different capacity at different places of posting, the petitioner has discharged his duty without any complaint from any corner. While the petitioner was posted as Junior Engineer in Rural Works Department, Works Division, Bikramganj, Rohtas, an F.I.R. came to be lodged, bearing Vigilance P.S. Case No. 28 of 2013 for the offences punishable under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 with an imputation that the petitioner has amassed assets more than his known sources of income. On account of the institution of the F.I.R., the petitioner



was put under suspension, leading to issuance of a Memo of Charge, as contained in letter no. 601 dated 18.02.2014 containing three charges levelled against the petitioner.

5. The crux of the allegation levelled against the petitioner that the estimated income of the petitioner was Rs.52,02,259/- while the petitioner was alleged to be having undisclosed investment worth Rs.1,55,02,319/-.

6. Learned Senior Advocate for the petitioner referring to the Memo of Charge contended that the list of documents only contains three documents on the basis of which the proposed charges have been proved without there being list of any witnesses. Despite the aforesaid fact, the enquiry proceeded and finally the services of the petitioner came to be terminated vide Memo No. 889 dated 24.03.2015. Aggrieved, the petitioner preferred C.W.J.C. No. 5655 of 2015. During the pendency of the aforenoted writ petition, the appellate authority rejected the appeal filed by the petitioner vide order dated 25.06.2015., which order was also put to challenge in the said writ petition. The writ petition finally came to be disposed of vide order dated 26.02.2019 after setting aside the order of the appellate authority and directed the respondent no.2 to pass appropriate order within three months.



7. The appellate authority having considered the defence of the petitioner and the materials available on record, was pleased to set aside the original order of termination vide Memo No.1501 dated 16.05.2019 and further directed the disciplinary authority to consider the defence of the petitioner, as has been disclosed in his defence statement. In pursuant thereto the petitioner appeared before the respondent no.2 and put forth his defence in detail, however, the disciplinary authority again committed same mistake and passed the order of dismissal by reiterating the earlier order of dismissal.

8. Learned Senior Advocate referring to the impugned order of dismissal vehemently contended that though the disciplinary authority has re-affirmed the order of termination, but again not complied with the direction issued by the appellate authority, which required the disciplinary authority to look into the evidence regarding partition among the brothers, income tax return filed by the wife of the petitioner and as the registered sale deed is concerned, the issue is not arising of disproportionate asset case. It is the contention of the learned Senior Advocate that the disciplinary authority reiterated the earlier order without examining the issue for which it was remanded and thus in complete violation of the mandate of the



appellate authority.

9. Being aggrieved, the petitioner preferred appeal, but surprisingly without making any deliberation and discussion of the grounds raised by the petitioner has passed the appellate order, as contained in Memo No. 1210 dated 02.09.2021 upholding the order of termination.

10. Referring to the appellate order, learned Senior Advocate further contended that there is no independent application of mind, apart from the order being perverse and cryptic; the appellate authority has failed to discharge his duty in considering the appeal preferred by the petitioner; no reason has been assigned as to why the grounds taken by the petitioner has not been found any favour. The appellate authority only affirmed the order of the disciplinary authority in mechanical manner.

11. Per contra, learned Advocate for the State referring to the averments made in the counter affidavit has contended that after the order of termination being set aside by this Court, the same was considered by the disciplinary authority and all the defence put forth by the petitioner was deliberated and discussed in the order of the disciplinary authority. Similarly, the appeal preferred by the petitioner was



duly considered by the appellate authority and after having applied his mind to the issue, passed a complete speaking order. It is further contended that since the documentary evidence is sufficient enough to prove the charges, in such circumstances, the petitioner has been inflicted with the punishment of dismissal after having found the charges of amassing the disproportionate property proved.

12. This Court has heard the learned Senior Advocate for the petitioner and the State, as also perused the materials available on record. Having gone through the appellate order, this Court finds substance in the submission of the learned Senior Advocate for the petitioner that apart from the appellate order is cryptic in nature, there is no application of independent mind. Neither there is any discussion or deliberation to the grounds taken by the petitioner in the Memo of appeal nor any reason has been assigned as to why the appeal preferred by the petitioner did not find favour.

13. The Hon'ble Apex Court in numerous occasion have emphasized that the appellate authority must give reason and there should be some discussion of the evidence on record and all the more, the appellate authority has a legal duty to deliberate about merit and adjudge it before confirming,



enhancing, reducing or setting aside the penalty. The Appellate authority has to consider the grounds raised in appeal and decide on merit, even if appeal is heard ex-parte. The learned Division Bench of this Court in the case of ***Kems Services Private Limited vs. The State of Bihar and Ors. [2014 (1) PLJR 622]*** while emphasizing the significant importance of assigning the reason while passing the impugned order has observed as follows:

“11. Natural justice is a word of very wide connotation. It cannot be put in any straight jacket formula. Its applicability shall depend on facts of each case. It cannot mean only fulfillment of the formality for giving of a show cause notice and acceptance of a reply. The final order must display complete application of mind to the grounds mentioned in the show cause notice, the defence taken in reply, followed by at least a brief analysis of the defence supported by reasons why it was not acceptable. To hold that the cause shown can be cursorily rejected in one line by saying that it was not satisfactory or acceptable in our opinion shall be vesting completely arbitrary and uncanalised powers in the authority. In a given situation if the authority concerned finds



the cause shown to be difficult to deal and reject, it shall be very convenient for him not to discuss the matter and reject it by simply stating that it was not acceptable. The giving of reasons in such a situation is an absolute imperative and a facet of natural justice. Reasons have been held to be the heart and soul of an order giving insight to the mind of the maker of the order, and that he considered all relevant aspect and eschewed irrelevant aspects.”

14. In view of the discussions made hereinabove and the settled legal position, this Court, without making any comment/observation on the original order, prima facie, is of the view that the appellate authority failed to discharge its statutory duty by evading the obligation to assign reasons and thus acted in defiance with the principles of natural justice and fair play. Thus, this Court has left with no option, but to set aside the impugned order of the appellate authority, as contained in memo No. 1210 dated 02.09.2021, issued by the respondent no.5 and relegate the matter afresh to the appellate authority to consider the grounds raised in the Memo of Appeal preferred by the petitioner and pass a reasoned and speaking order in accordance with law within a period of twelve weeks from the date of receipt/production of a copy of this order.



15. The writ petition stands allowed.

16. Pending application, if any, stands disposed of.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.03.2025
Transmission Date	NA

