IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16510 of 2013

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Devendra Kumar Son of Shri Shyam Sundar Singh R/O Vill. Keolar, P.S.- Makshudpur, District- Jehanabad

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna
2. The Commissioner, Patna Division, Patna
3. The Collector, Buxar
4. The Deputy Collector, Establishment, Buxar
5. The Circle Officer, Buxar

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajani Kant Singh, Advocate

For the Respondent/s : Mr. Vivek Prasad, G.P.-7

Mr. Supragya, A.C. to G.P.-7

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

7 04-09-2025 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application praying for quashing the order dated 7.3.2013 passed in Service Appeal Case no.184 of 2011 whereby the learned Commissioner, Patna Division, Patna was pleased to reject the appeal preferred by the petitioner and confirmed the order of punishment dated 6.7.2011 passed in Case no.51/2011-12 by the learned Establishment Deputy Collector, Buxar.

3. The case of the petitioner in brief is that in the year 2002, he was proceeded against departmentally and an order of

punishment contained in Memo no.928/Establishment dated 10.9.2002 was passed imposing the punishment of withholding of two annual increments with non-cumulative effect. It further transpires that directions were issued to the Circle Officer, Buxar for making the entries in the service book of the petitioner. The order impugned further states that as communicated by the Circle Officer concerned by his letter dated 3.6.2011, the punishment was entered in the service book of the petitioner. It further transpires that the respondents were of the opinion that on perusal of pages 6 and 7 of the service book, the quality of paper appeared to be different and thus it was evident that some tampering etc. had been done. As the petitioner happens to be the beneficiary from the punishment of the year 2002 not being mentioned in his service book, it appears that he is involved in tampering of the same.

4. A show cause was asked for from the petitioner to which he replied. Reply of the petitioner not having been found to be satisfactory, the respondent authorities came out with the order of punishment dated 6.7.2011 in Case no.51 of 2011-12 under the signature of the Establishment Deputy Collector, Buxar imposing the punishment of withholding of two annual increments with non-cumulative effect of the petitioner. The

petitioner having challenged the order of punishment dated 6.7.2011 in an appeal being Service Appeal Case no.184 of 2011, the same came to be dismissed by the Commissioner, Patna Division, Patna on 7.3.2013. Both these orders of punishment as also the order rejecting the appeal preferred by the petitioner are impugned in the instant application.

5. It is submitted by learned counsel for the petitioner that from the contents of the order of punishment itself, it would transpire that the entry in the service book was to be done by the Circle Officer, Buxar. Admittedly, the petitioner is not the custodian of the service book. Any interpolation in any of the pages which may be found, only for the reason that the service book is of the petitioner, the petitioner cannot be held responsible for interpolation therein. There is neither any evidence led nor any discussion in the order as to how the petitioner has been held responsible for the interpolation, if any, in his service book.

6. Further, referring to the order of the learned Commissioner passed in appeal, learned counsel for the petitioner submits that there is no discussion whatsoever on the merits of the allegations nor on the interpolation in the service book etc. The order passed in appeal is a non-speaking,

perfunctory and needs to be set aside on this ground alone.

7. In response, it is submitted by learned counsel appearing for the respondent-State of Bihar that the petitioner being the beneficiary of the tampering of the relevant pages of his service book where his order of punishment with respect to the matter of the year 2002 was entered into, he had to be held responsible. It is further submitted that the matter has been considered in appeal, however, in case this Court is not satisfied with the discussions, on the facts of the case, the matter be remanded back to the Commissioner for re-deciding the appeal.

8. Having heard learned counsel for the parties and taking into consideration the material on record, the relevant fact in brief are that in the year 2002, on the petitioner being proceeded against, he was imposed the punishment of withholding of two annual increments with non-cumulative effect which the Circle Officer, Buxar was directed to enter into the service book of the petitioner. It further transpires from the communication of the Circle Officer, Buxar that he entered the same in the service book of the petitioner and the service book was subsequently sent to the office of the Circle Officer at Simri. It further transpires that subsequently pages 6 and 7 of the petitioner's service book appeared to be tampered with. It is

nowhere the case of the respondents at any point of time that the petitioner was the custodian of his service book or he had entered into conspiracy with any of the persons said to be in custody of the same. The only material against the petitioner is that he happens to be the beneficiary of non entry of the relevant punishment in his service book.

9. In the opinion of the Court, just being the beneficiary of non entry of the punishment and specially in absence of any evidence that the petitioner at any point of time was the custodian of the service book, he cannot be held responsible for the same. The order of punishment appears to have been passed without any material basis in a perfunctory manner.

10. So far as the order of appeal is concerned, the same does not even discuss the allegations and only talks about the matter in issue of the year 2002 wherein the petitioner was imposed with the punishment of withholding of two annual increments with non-cumulative effect.

11. In view of the facts of the case, both the order of punishment dated 6.7.2011 passed by the Establishment Deputy Collector, Buxar as also the order dated 7.3.2013 passed by the Commissioner, Patna Division, Patna are not sustainable and fit

to be set aside.

12. The writ application is allowed with all consequential benefits.

(Partha Sarthy, J)

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