

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16402 of 2013

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Ram Naresh Prasad Singh Son of Sri Kesho Singh R/O Village P.O. Onama,
P.S. Shekhopur Saai, District - Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar
 2. The Principal Secretary, Labour Resources Department, Govt. of Bihar,
Patna
 3. The Labour Commissioner, Govt. of Bihar, Patna
 4. The Assistant Labour Commissioner Research Cum Enquiry Officer, Patna
- Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs. Shruti Singh, Advocate Mr. Sumit Shekhar Pandey, Advocate
For the Respondent/s	:	Mr. Shushil Kumar Singh, AC to AAG 10

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

11 23-12-2025 1. Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The petitioner has filed the instant writ application challenging the order dated 4.7.2013 passed by the Labour Commissioner imposing the punishment of 10% deduction of pension in a departmental proceeding conducted under Rule 43B of the Bihar Pension Rules, quashing the order dated 7.8.2013 passed by the Principal Secretary, Labour Resources Department, Bihar, Patna, rejecting the appeal preferred by the petitioner as also the order dated 13.5.2014 of the Labour Commissioner, Bihar directing that the petitioner would not be entitled for payment of any amount on his



retirement under the head of Pension and Gratuity and further that the total amount recoverable would be recovered from the petitioner in 25 monthly installments.

3. The case of the petitioner in brief is that just before his retirement while working as a Clerk in the Labour Department, he was served with the memo of charges on 5.7.2011 and a departmental proceeding was initiated. Soon thereafter, the petitioner retired from service on 31.7.2011 and by order dated 4.11.2011 the proceeding was converted into one under Rule 43B of the Bihar Pension Rules. It further transpires that the petitioner on receiving the notice submitted his reply on 22.7.2011 and 20.10.2011 and finally on conclusion of the enquiry the Conducting Officer submitted the enquiry report on 12.3.2012.

4. The petitioner was served with the copy of the show cause on 18.6.2012 to which he submitted his reply on 12.7.2012.

5. Having gone through the contents of the departmental proceeding, the Labour Commissioner by order dated 4.7.2013 (Annexure-8) passed the order of punishment against the petitioner directing for 10% cut in the amount payable to the petitioner under the head of Pension and Gratuity. The appeal preferred by the petitioner against the order of



punishment was rejected by order dated 7.8.2013 passed by the Principal Secretary, Labour Resources Department, Bihar, Patna.

6. During pendency of the application, the respondents came out with the order dated 13.5.2014 (Annexure-13) whereby the order of punishment was revised, the manner of recovery of the amount was said to be done in 25 equal monthly installments.

7. The petitioner has challenged these three orders ie the order of punishment dated 4.7.2013, the order rejecting his appeal dated 7.8.2013 and the order dated 13.5.2014 stating the manner of recovery of the amount, in the instant writ application.

8. Learned counsel for the petitioner submits that from perusal of the enquiry report, a copy of which has been brought on record as Annexure- 5 to the writ application, the Conducting Officer clearly states therein that inspite of opportunity having been granted to both the parties/sides neither of the parties examined any witness. It is thus submitted that admittedly, no witness having been examined on behalf of the management, no document was either proved nor marked exhibit in the departmental proceeding and it is a case of no evidence against the petitioner.



9. Reliance is placed by learned counsel for the petitioner on the judgment of Hon'ble Supreme Court in the case of **Roop Singh Negi vs Punjab National Bank & Ors; (2009) 2 SCC 570.**

10. In response, it is submitted by learned counsel for the respondents State of Bihar that though on reading of the Inquiry Report, it cannot be denied that no witness was examined on behalf of the management, however, there is no procedural irregularity pointed out by the petitioner in the conduct of the proceedings. The documents/ exhibits relied upon by the Inquiry Officer in coming to the conclusion that the charges have been proved, have neither been contested by the petitioner nor has any objection been raised on their reliability at any stage. It is thus submitted that the scope of judicial review in a departmental proceeding being very limited the order of punishment as also the order passed in appeal, may not be interfered with and the writ application be dismissed.

11. Heard learned counsel for parties and perused the material on record.

12. On perusal of the charge sheet issued against the petitioner in Form *Ka* it transpires that charge against the petitioner was to the effect that on a complaint having been received about the petitioner demanding bribe, an inquiry was



got conducted by a team of the Vigilance Department. In course of inquiry though no amount of bribe was recovered by the vigilance team, however, on insertion of the hand/fingers of the petitioner in a glass containing sodium carbonate, the water turned pink thus substantiating the allegations against the petitioner. It further transpires that the inquiry proceeded and an inquiry report came to be submitted, a copy of which has been brought on record as Annexure-5 to the writ application. Having stated about the facts of the case of the two sides, the Conducting Officer specifically states that inspite of opportunity having been given, neither of the two sides produced any list of witnesses nor did any witness depose in the inquiry. It further transpires that inspite of the aforesaid undisputed fact of no witness having deposed in course of inquiry nor having proved any document being relied upon by the Conducting Officer against the petitioner, the Conducting Officer found the charge against the petitioner to have been proved and the respondents proceeded to pass the order of punishment, impugned herein.

13. The Hon'ble Supreme Court in the case of **Roop Singh Negi v. Punjab National Bank; (2009) 2 SCC 570** held as follows:

“14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The



enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the investigating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the



enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

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23. *Furthermore, the order of the disciplinary authority as also the appellate authority are not supported by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof.”*



14. In the facts and circumstances of the case, the undisputed position being that no witness was examined in course of inquiry conducted against the petitioner and thus no document either having been proved or marked exhibit, the case against the petitioner is one of no evidence.

15. In view of the facts and circumstances stated herein above, the order of punishment cannot be sustained. Both the order of punishment dated 4.7.2013 passed by the Labour Commissioner imposing the punishment of 10% deduction of pension and the order dated 13.5.2014 of the Principal Secretary, Labour Resources Department, Bihar, Patna, rejecting the appeal are unsustainable and are set aside. As such the order dated 13. 5. 2014 of the Labour Commissioner is also set aside.

16. The petitioner will be entitled for all consequential benefits which shall be paid by the respondents to the petitioner within a period of three months from the date of receipt/reproduction of a copy of this order.

17. The writ application stands allowed.

(Partha Sarthy, J.)

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