

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1437 of 2023

In
Civil Writ Jurisdiction Case No.7448 of 2021

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1. The State of Bihar
 2. The Principal Secretary, General Administration Department, Bihar, Secretariat Building, Patna.
 3. The Principal Secretary, Food and Civil Supply Department, Bihar, Secretariat Building, Patna.

... .. Appellant/s

Versus

1. Santosh Kumar Son of Late Shree Krishna Singh, Resident of Rahdhani Apartment, Mahesh Nagar Road No.-3A, House No.15, Keshari Nagar, Patna-800024, at present Posted as District Manager, State Food Corporation, Kaimur at Bhabhua.
2. The Managing Director, Bihar State Food and Civil Supplies Corporation, Khadya Bhawan, Daroga Rai Path, R-Block, Road No. 2, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Manoj Kumar (A.C. To G.P.4)
For the Respondent/s : Mr. Shailendra Kumar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date :08-01-2025

Heard learned counsel for the appellants-State of Bihar
and learned counsel for the respondents-writ petitioner.

I.A. no.1 of 2023

2. The instant interlocutory application has been filed on behalf of the appellants praying for condoning the delay of 133 days in filing of the instant appeal.



3. In reference to the statements made in the application, it is submitted by learned counsel for the appellants that having obtained the copy of the order of the learned Single Judge on 10.8.2023, the file was placed before the Joint Secretary and thereafter the Principal Secretary of the General Administration Department who directed the file to be sent to the Law Department for advice as to whether an appeal be filed or not. The file was received back on 29.8.2023 from the Law Department with the advice to file an appeal. Accordingly, steps were taken for preparation of the grounds of the appeal, the appeal was drafted and finally filed on 14.12.2023.

4. Learned counsel for the appellants submits that the delay has been caused for reasons beyond the control of the appellants and the same was not intentional. As such, it is prayed that the delay in filing of the appeal be condoned and the appeal be heard and decided on its own merits.

LPA no.1437 of 2023

5. The instant appeal has been preferred by the appellants-State of Bihar against the order dated 6.7.2023 whereby the learned Single Judge was pleased to allow CWJC no.7448 of 2021, set aside the order of punishment by the disciplinary authority dated 1.9.2020 and the order passed in



review on 7.1.2021. It was further ordered that the writ petitioner would be entitled to all consequential benefits.

6. The relevant facts in brief are that while posted as the District Manager, Bihar State Food and Civil Supplies Corporation ('the Corporation' in short) at Bettiah, the writ petitioner was served with a show cause notice on 5.10.2016 to which he filed his reply on 7.10.2016. The writ petitioner was thereafter served with a charge memo on 23.12.2019 containing two charges. The first charge was that he did not ensure filing of counter affidavit before the Patna High Court in Cr. Misc. no.37194 of 2016 (Ajay Prasad @ Ajay Kumar vs. The State of Bihar & Ors.) failing which the Court directed the Principal Secretary and Managing Director to personally appear before the Court and secondly that he was absent from the Headquarters in an unauthorised manner without prior permission from the higher authorities. The writ petitioner filed his explanation on 7.2.2020. As the writ petitioner was working under the control of the Corporation, the General Administration Department asked the Food and Civil Supplies Department to give its opinion and finding on the charges. The Department sought the opinion of the Corporation.

7. It is the case of the writ petitioner that both the



authorities submitted their respective opinions which were to the effect that the charges had not been found to be proved and the writ petitioner was not guilty on any count. The writ petitioner was exonerated by the Corporation and the Food and Civil Supplies Department also submitted its opinion and finding vide letter dated 14.6.2020 before the General Administration Department. In spite of the charges not having been proved and the writ petitioner having been exonerated by both the Food and Civil Supplies Department as also the Corporation, the General Administration Department came out with an order dated 1.9.2020 imposing punishment of Censure (Year 2015-16) and withholding one increment with non-cumulative effect against the writ petitioner. The writ petitioner challenged the same by filing a review application which was also dismissed by order dated 7.1.2021 passed by the Additional Secretary, General Administration Department, Government of Bihar.

8. It is submitted by learned counsel appearing for the appellants-State of Bihar that the learned Single Judge has committed an error in allowing the application and setting aside the order of punishment passed against the writ petitioner as the writ petitioner had been found to be careless towards his assigned duties leading to appearance of the Principal Secretary



of the Department in the Court. The disciplinary authority took the decision to punish him for his willful and deliberate activities and the order of punishment was passed only after giving him an opportunity to submit his explanation with respect to the charges.

9. Having heard learned counsel for the parties and taking into consideration the material on record, it transpires that the relevant facts in brief are that the writ petitioner who was posted at the relevant time as the District Manager of the Corporation at Bettiah was issued with a show cause notice on 5.10.2016 to which he filed his reply on 7.10.2016. The criminal case in the Patna High Court, non-filing of the counter affidavit in which led to issuance of show cause notice, was disposed of on 11.1.2017. The writ petitioner was served with charge memo on 23.12.2019, the two charges being that the writ petitioner failed to ensure filing of counter affidavit in Cr. Misc. no.37194 of 2016 in the Patna High Court and that he was absent from the Headquarters in an unauthorised manner. The writ petitioner filed his explanation to the charges. The Deputy Manager, Administration, Bihar State Food and Civil Supplies Corporation Limited on going through the explanation furnished by the writ petitioner submitted his report dated 12.6.2020. With



respect to the first charge of not filing of the counter affidavit in the case, he was of the opinion that as soon as information was received by the writ petitioner, the counter affidavit was filed and the explanation furnished was acceptable. With respect to the second charge of the writ petitioner remaining absent from the Headquarters without proper leave, he was of the opinion that the same was not established. In spite of the writ petitioner having been exonerated of both the charges, the General Administration Department came out with an order of punishment contained in Memo no.7543 dated 1.9.2020 under the signature of the Additional Secretary imposing the punishment of Censure (Year 2015-16) as also withholding of one increment with non-cumulative effect.

10. On perusal of the order of punishment, it transpires that it mentions about an opinion having been sought from the Food and Civil Supplies Department which was received on 14.6.2020 but it does not mention its reason for differing with the same. At the cost of repetition, it may be stated that the writ petitioner having been exonerated in the proceeding initiated against him, even the Food and Civil Supplies Department, Government of Bihar by their letter bearing no.2419 dated 14.6.2020 had written to the General



Administration Department that the explanation furnished by the writ petitioner was acceptable, he acted on time in the matter of filing of the counter affidavit in the Patna High Court and further the allegation of his unauthorised absence from the Headquarters was not established. Both the charges not having been proved in the opinion of the authority and similar opinion having been given by the Food and Civil Supplies Department to the General Administration Department, in the opinion of this Court, the respondents erred in passing the order of punishment. Further, the order of punishment does not even mention the grounds on which the authority differed with the enquiry report nor the fact that the writ petitioner was issued with any notice prior to passing of the order of punishment differing with the enquiry report wherein the writ petitioner had been exonerated. A review application was also filed by the writ petitioner which was rejected by a cryptic and non-speaking order dated 7.1.2021. The learned Single Judge taking the above facts into consideration set aside both the order of punishment dated 1.9.2020 as also the order passed in review dated 7.1.2021.

11. The appellants have neither made out a case for condonation of delay in filing of the appeal nor a case for interference on merits in the order impugned.



12. The Court finds no merit in the instant appeal and
the same is dismissed.

(Partha Sarthy, J)

(K. Vinod Chandran, CJ): I agree.

(K. Vinod Chandran, CJ)

Saurabh/-

AFR/NAFR	
CAV DATE	05.12.2024
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Transmission Date	

