

**In The Court of Commissioner, Saran Division, Chapra**  
**Service Appeal No. 79/2018**

**Shyamal Kishore**

**Vrs.**

**The State of Bihar**

**ORDER**

The instant appeal petition has been preferred before this Court by the appellant pursuant to the direction given by the Hon'ble High Court while disposing of CWJC No. 10329/2013 on 30.01.2018.

The brief facts of the case are that the appellant Shyamal Kishore S/o Late Janardan Prasad at the relevant time, was posted as clerk in the block office of Gopalganj. Further case is that a departmental proceeding was initiated against him for the alleged charges of giving benefit of IAY to 12 beneficiaries for the second time to the husband of those beneficiaries whose spouse were already granted the said benefit of IAY in Yadopur dukhharan Panchyat in the year 2002-03 to 2005-06. Thereafter, the conducting officer submitted his report vide letter No. 217 dt. 09.01.2012. The D.M. Gopalganj acting on the said report issued second show cause notice to the appellant vide memo No. 184/Estt. dt. 17.02.2012. In compliance to the said second show cause notice, the appellant submitted his reply wherein he denied of his direct involvement in the disbursement of IAY fund. But the learned D.M. after considering the inquiry report as well as the second show cause reply filed by the appellant finally decided to impose punishment to the tune of withholding of three increments with cumulative effect in time pay scale. Feeling aggrieved by the said punishment order, the appellant approached the Hon'ble High Court by way of preferring CWJC No. 10329/2013 and after the direction of the Hon'ble High Court passed in the said writ case, the instant appeal petition has been preferred before the appellate authority.

Heard.

The learned counsel appearing on behalf of the appellant while assailing the impugned order, submitted that the order of the D.M. Gopalganj is based on presumption and surmises. He further submitted that the learned D.M. being disciplinary authority has committed grave error while passing the impugned punishment order as the relevant rule of Bihar Govt. Servant (classification, control & Appeal Rules-205) has not been followed completely. The learned counsel further argued that the learned D.M. has wrongly jumped on the conclusion that the appellant had committed irregularities and illegality in disbursing the fund of IAY. The learned counsel further strongly submitted that the disciplinary authority has committed grave error by not considering the fact that the appellant has not done any misappropriation of fund rather one Shanti Devi W/o Hina Manjhi was given money on the basis of recommendation made by the Mukhiya & Panchayat Sachiv of the concerned gram Panchayat along with recommendation of the supervisor and later on Shanti Devi returned money to block Nazarat. He further argued that the learned D.M. without verifying the material on record has passed the order and even the report/opinion of DDC, Gopalganj has not been taken into consideration while passing the impugned order. He lastly submitted that as the impugned order is arbitrary, illegal and against the material facts of the case, the same is fit to be set aside.

The learned Govt. Pleader appearing on behalf of the D.M. Gopalganj on the other hand, supported the impugned punishment order and further stated that as the



allegation/charges were found proved in the departmental inquiry and keeping in view the commission of irregularities in disbursing of IAY fund to those persons who were not entitled anyway, the punishment given to the appellant seems to be justified. He also stated that as the punishment order has been passed after duly conducting the departmental proceeding, the same can not be termed as illegal and as such the impugned order is fit to be upheld.

Considering the facts and circumstance of the case, materials available on record, submissions made by the learned counsel and on perusal of the impugned order, it is seen that the punishment of withholding of three annual increments with cumulative effect has been awarded to the appellant after a duly conducted departmental inquiry. The learned counsel for the appellant has simply argued that the said departmental inquiry is against the provision of Bihar CCA Rules-2005. But it is seen that the learned counsel failed to furnish any reason as to how the rules laid down in Bihar Govt. Servant (classification, control & Appeal Rules-205) have not been complied with. Thus, I do not find any substance in the said claim and the same is not worth also for consideration as to whether the punishment imposed on the appellant is commensurate with the gravity of the offence for which the appellant was proceeded. In view of the above discussion the order of D.M. Gopalganj passed vide memo No. 347 dated 27.03.12 is upheld and the instant service appeal is not allowed.

Dictated and Corrected by me.

Commissioner  
Saran Division, Chapra.

Commissioner  
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