

In The Court of Commissioner, Saran Division, Chapra
Service Appeal No. 196/2016
Ranjan Kumar
Vrs.
The State of Bihar
ORDER

The instant appeal petition is directed against the impugned order as contained in memo No. 954/Est. dt. 23.07.2016 whereby and whereunder the appellant has been dismissed from service.

The brief facts of the case are that the appellant Ranjan Kumar S/o Gujeshwari Sharan, at the relevant time was working as office attendant in the CDPO, office, Thawe, Block of Gopalganj district. Further case is that a case u/s 161 of IPC and u/s 7,8,9 of Prevention of Corruption Act-1988 was registered vide Thawe P.S. case No. 79/2013 against the present appellant and one another person for the alleged charges of collecting bribe from Aanganbari Sevikas in the office of CDPO. Thawe on 24.06.2013. Thereafter he was arrested and forwarded in judicial custody by order of learned Special judge Vigilance Court, Muzaffarpur. Subsequently charge sheet was drawn up and he was placed under suspension. On release from jail on regular bail, the appellant reported for joining which was allowed by the authority and he joined on 06.01.2014 but on the same day he was placed under suspension again and deptt. proceeding was initiated and Addl. Collector, Deptt. proceeding Gopalganj was made as conducting officer and DPO, ICDS Gopalganj was made presenting officer in the said deptt. proceeding. After the completion of deptt. inquiry, the inquiry officer submitted his inquiry report in which he found that it was not proper for him to record his finding on charge No. 1, whereas charge No. 2 was found proved and charge No. 3 unproved by him. Then the disciplinary authority asked second show cause from the delinquent pursuant to the direction of Assist. Director, ICDS, Patna with regard to award of major punishment. The appellant filed his second show cause reply and finally in view of the proved charges in the deptt. inquiry, the major punishment like dismissal from service was awarded to the appellant vide order dt. 23.07.2016. Feeling aggrieved by the said order, the appellant has preferred the instant appeal before this Court.

The learned counsel appearing on behalf of the appellant in his detailed argument submitted the whole course of events leading to arrest of the appellant for the alleged charges of collecting bribe from Aanganbari Sevikas in the CDPO office, Thawe and subsequent his acquitted from the said charges by the vigilance Court of Spl. Judge, Muzaffarpur in Spl. Case No. 21/2013 on 10.06.2017. The learned counsel further said that actually the appellant was implicated in the case by CDPO who had some grudge with the appellant. He further argued that it is highly unbelievable that any Anganbari Sevika would give any money to a peon of the office for some favour and on this ground the charges fails. He also submitted that the appellant was acquitted from the said alleged charges from the vigilance Court and he also filed the copy of the order in support of his contention, in that situation nothing remains against the appellant for awarding of punishment of dismissal from service. The learned counsel further argued that even the inquiry officer did not find the charges proved and for that reason also, the appellant could not have been imposed with the punishment of dismissal from service. He also strongly submitted that the very recovery of R.S. 6400 from the possession of the appellant was taken as evidence and the said amount was stated to have been collected as bribe from the Aanganbari Sevikas, but this is entirely wrong in view of the fact that the said amount was taken by the appellant from his acquaintance to be spent in the treatment of her ailing wife. He lastly

said that as the impugned order relating to dismissal from service for the charges, which itself was not considered to be proved in the vigilance Court, then there was no occasion for the authority to award such a major punishment which is no away commensurate with the gravity of offence and as such the impugned order is fit to be set aside.

The learned G.P. appearing on behalf of the state while opposing the arguments forwarded by the learned counsel for the appellant said that the appellant was caught red handed while taking bribe and he was actually not acquitted by the vigilance Court for the charges rather the case was dropped due failure of prosecution to prove the case beyond all reasonable doubts. He further submitted that the impugned punishment order is fully justified in view of the charges levelled against the appellant a such the same is fit to be upheld.

Considering the facts and circumstances of the case, material available on records, pleadings forwarded by the learned counsel for the parties and on perusal of the impugned order, it is seen that the appellant has been imposed with extreme punishment of dismissal from service for the alleged charges of adopting corrupt practices and being caught while illegally collecting money as bribe from Aanganbari sevikas. The contention of the petitioner's counsel is that the said charges of corruption against the appellant was not proved in the deptt. proceeding and the appellant was also acquitted from the vigilance Court for the said selfsame charges. This averments of the appellant counsel is not fully correct in view of the fact that the learned D.M. Gopalganj, while considering the second show cause reply of the appellant, has clearly held that the appellant was caught in the office while collecting money illegally from Aanganbari servikas in office and subsequently he was sent in judicial custody and the entire action was taken by him when he was informed by someone on telephone. In fact, there is no denial by the appellant of any such incident being not taken place on 24.06.2013. The other point raised by the appellant that the appellant was acquitted from the vigilance Court for the said charges also as such the appellant could not have been ordered with the punishment of dismissal from service. But it is seen from the order dt. 10.04.2017 passed by Spl. Judge vigilance Court in Spl. Case No. 21/13, the acquittal of the appellant became necessitated due to failure of prosecution to establish the said charges as all of the witnesses as became hostile.

Thus, it is seen that the punishment order passed by the D.M. as disciplinary authority seems to be justified. In fact, the appellant does not deserve any other punishment for the said grave charges of corrupt practices. What is more, there is no lacuna in the deptt. proceeding conducted against the appellant. On the other hand, the learned counsel for the appellant failed to point out any specific illegality in the said punishment order. The quantum of punishment is commensurate with the gravity of the offence which is absolutely proved in the deptt. proceeding.

For the aforementioned reasons, the impugned order dt. 23.07.2016, passed by D.M. Gopalganj is upheld.

In the result this appeal petition stands dismissed.

Dictated and Corrected by me

Commissioner
Saran Division, Chapra.

Commissioner
Saran Division, Chapra.