

In The Court of Commissioner, Saran Division, Chapra

Service Appeal No. 20/2013

Anirudh Mishra

Vrs.

The State of Bihar & Ors.

ORDER

28-02-15 The instant appeal is directed against the impugned order passed by District Magistrate, Gopalganj as contained in Memo No. 1494/panchayat dated 25.10.2012 whereby and whereunder the appellant was inflicted with certain punishment.

The appellant Anirudh Mishra, at the relevant time was posted as panchayat Sachiv, Block- Barauli, Gopalganj. The case against the delinquent employee is that as he was assigned the task of selecting the indira Awas beneficiaries of Gram Panchayat sadauwa but he could not send the advice to the bank in favour of the beneficiaries and also alleged to have submitted the wrong report. For his lapses, he was placed under suspension and show cause notice served on him. The appellant filed his show cause reply stating therein that all the charges levelled against him were not correct. However, the D.M. on finding the said show cause reply to be unsatisfactory inflicted the punishment of with holding of one increment with cumulative effect and nothing will be payable other than the subsistence allowance for the period of suspension.

Heard the parties.

The learned counsel appearing on behalf of the appellant submitted that the appellant can not be held responsible for the selection of beneficiaries of IAY as the said list of beneficiaries was prepared earlier and the list submitted by this appellant for only seven persons and as out of seven, five persons do not have any land in their name so the advice could not be sent to the bank by the Block office. The learned counsel further argued that without considering the show cause reply by the D.M., impugned order has been passed which is against the principle of natural justice. He also argued that the appellant has been inflicted with the punishment simply on the basis of allegation levelled by the Mukhia as such the impugned order be set aside.

The learned G.P. strongly supported the impugned order of D.M., and



submitted that the order is just, proper and legal and the appeal may be dismissed.

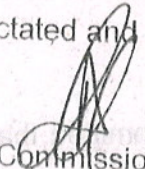
Considering the facts and circumstances of the case, material available on records and on perusing the impugned order, it is seen that, in this particular case, the delinquent employee has been meted with certain punishment of which part of the punishment is of major category and part falls in minor category without framing any charge sheet "Form "k" or conducting any deptt. proceeding. The learned counsel emphasized on this procedural lapses, at the level of disciplinary authority. I do find some substance in the submission of the learned counsel so far as subsection (vi) of section 14 of Bihar CCA Rules Clearly says that withholding of increment of pay with cumulative effect is a major penalty. Thus it, appears that some kind of procedural lapses are quite apparent in the impugned order. Besides this, it is also that the appellant has been awarded with a major punishment which is not commensurate with the gravity of the charges against him.


Thus, for the aforesaid reasons, the impugned order of D.M. Gopalganj contained in Memo No. 1494 dated 25.10.2012 needs to be modified to the extent mentioned herein below.

1. Withholding of one increment with cumulative effect is changed into non-cumulative effect.
2. Remaining punishment requires no interference as it has been proved that benefit of IAY has been granted to one non-deserving person by the appellant.

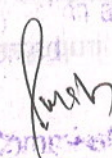
Accordingly, this appeal is allowed to the extent mentioned above.

Dictated and corrected by me.


Commissioner,
Saran Division, Chapra

 28.2.15
Commissioner,
Saran Division, Chapra

Memo No. Date
Order Passed on 28/2/15 is Forwarded to The
D.O., Saran
For Information and to be placed in and for
Communication to all concerned


Sec To Commissioner
Saran Div. Chapra
28/2/15