

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHAPRA

Service Appeal No. 36/2009

Manoranjan Singh
Vrs
Collector, Siwan

ORDER

13.03.2015 The instant appeal is directed against the impugned order passed by Collector, Siwan, contained in Memo No. 1465 dated 03.12.2008 whereby and whereunder the petitioner was inflicted with certain punishment.

The brief facts of the case are that the appellant, at the relevant time, was posted as Jansevak and holding additional charge of panchayat Sachiv of Ramsapur Panchayat in Darundha Block of Siwan District. The further case is that the appellant was charged for non-issuance of job cards to labours under MNREGA scheme and also did not take steps for opening their account in post office besides committing irregularities in the appointment of contract teacher in the said panchayat. This led to suspension of the appellant and accordingly Deptt. Proceeding was initiated. The inquiry officer, the SDC, Mahrajanj submitted his report on 24.09.2008 to the disciplinary authority, the D.M. who on acting on the said inquiry report inflicted the following punishment on the delinquent like, only subsistence allowance will be payable for the period of suspension, withholding of one increment with non-cumulative effect and warning for future.

On being aggrieved by and dissatisfied with the aforesaid punishment order, the appellant preferred this appeal.

Heard the parties.

The learned counsel for the appellant, at the very outset of his arguments, submitted that the charge of alleged irregularities stated to have been committed by the appellant in the appointment of contract teachers and whose service were also terminated and since the said termination order has been quashed by the Hon'ble High Court, how can the appellant be held responsible for committing irregularities. As such the punishment order against the appellant is not legal and fit to be set aside. He further argued that of all the charges against the appellant only the charge relating to appointment of contract teachers was found partially proved in the Deptt. Proceeding and the rest charges were not proved despite the appellant was inflicted with severe punishment. He lastly prayed that impugned order be set aside.

The learned Govt. pleader supported the impugned order and submitted that the order of D.M., Siwan is just, proper and legal and fit to be upheld.




Considering the facts and circumstances of the case, material available on records and on going through the enquiry reports and impugned order, it is seen that altogether three charges were framed against the appellant. The inquiry officer found only the third charge, in respect of irregularities in the contract teachers appointment, to be partially proved and rest two charges were not proved. However, the appellant's counsel claims that even the third charge relating to appellant in respect of commission of irregularity in appointment of contract teachers has been quashed by the Hon'ble High Court as such nothing remains against the appellant for awarding punishment. This plea is however unacceptable.

The Hon'ble Court vide its order in CWJC No. 8172/2007 set aside the appointment cancellation order on the grounds that reasonable opportunity was not accorded i.e. violation of principles of natural justice. It has been made clear by the Hon'ble Court that its order is not based on merit of the case. On the other hand, the relevant portion of the charge which has been found true by the conducting officer is about the deliberate non-compliance of the order to hold the counselling afresh. It is noteworthy that at that time there was no order of the Hon'ble Court staying/quashing the said cancellation order. Hence the assertion of the petitioner that this charge becomes unsustainable in view of the order of the Hon'ble Court clearly lacks merit and is therefore untenable.

It is also worth noting that there is neither any procedural infirmity in the departmental proceeding nor the penalties imposed are excessive and not commensurate with the proven charges.

Hence in view of this the appeal is dismissed for the reasons as stated above.

Dictated and corrected by me

Commissioner, 13/3/15
Saran Division, Chapra


Commissioner, 13/3/15
Saran Division, Chapra

Memo No. Date
Order Passed on 13/3/15 is Forwarded to The
d/o. Saran

For Information and
Communication to
See To Commissioner
Saran Div. Chapra

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