

In The Court of Commissioner, Saran Division, Chapra

Service Appeal No. 228/2012

Lakhendra Choubey

Vrs.

The State of Bihar.

ORDER

06-05-2016.

The instant appeal petition is directed against the impugned order passed by D.M., Gopalganj, as contained in Memo No. 1020/panchayat dated 14.07.2013 whereby and whereunder, the appellant has been inflicted with the punishment of withholding of four annual increments of pay with cumulative effect.

The brief facts of the case are that the appellant Lakhendra Choubey S/o Late Bhagwan Chaubey, at the relevant time, was posted as Panchayat Sachive in Baikunthpur block of Gopalganj district. Further case is that the BDO, Baikunthpur vide letter No. 660 dated 27.07.2009 reported to the D.M., Gopalganj with respect to the alleged misdeeds and dereliction of duty assigned to him. Thereafter, a departmental proceeding was ordered vide memo No. 826 dated 11.09.2009 and subsequently the appellant was placed under suspension for the alleged charges like dereliction of duty, unauthorized absence from duty Govt.'s policies and programs. Then a charge sheet was issued in which altogether 12 charges were mentioned in which the main charges were for his alleged failure in execution of the various development schemes of the Govt. and also of committing gross irregularities in distribution of old age person, scholarship to the students, non -removal of objection received against BPL and family survey list, appointment of contract teacher and not handing over charge to other panchayat Sachiv. The inquiry officer after conducting the departmental inquiry submitted his report to the disciplinary authority, the D.M. and who on acting on the said inquiry report, inflicted the above punishment on the delinquent employee. Feeling aggrieved by the said order of the learned D.M., the appellant has preferred the instant appeal petition before this court.

Heard the learned counsel or the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned punishment order is legally not sustainable, as the same has been passed without considering the inquiry report submitted by the conducting officer. He further submitted that although, the inquiry officer has mentioned in the inquiry report that the appellant was found guilty for discharging official work at his own whims and fancy resulting in the non-completion of some works, but the learned D.M. instead of considering the said report, inflicted punishment of withholding of four annual increments of pay by completely ignoring the provision of law. He lastly submitted that as the impugned punishment order has been passed without complying with the principle of natural justice, the said punishment order is fit to be set aside.



The learned Govt. pleader, appearing on behalf of the D.M., Gopalganj, while vehemently opposing the arguments advanced by the learned counsel for the appellants, submitted that the said punishment order is just and valid in view of the fact that altogether twelve charges of misconduct were leveled against the appellants all of which were of serious nature resulting in the failure of Govt's. development schemes in the concerned panchayat. He lastly submitted that the impugned order is fit to be upheld and this appeal petition being devoid of any merit be dismissed accordingly.

Considering the facts and circumstances of the case, material available on records pleadings made by the learned counsel for the parties and on perusal of the impugned order, it appears that the disciplinary authority, keeping in view the nature and gravity of charges, findings of inquiry officer and all relevant facts relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rule on the delinquent. The learned counsel for the appellant failed to point out any specific illegality in the said punishment order and the quantum of punishment. His only contention is that as that appellant's charges were not proved in deptt. Inquiry he should not have been meted with the said punishment. I do not find any force in the said submission in view of the fact that the disciplinary authority is empowered to exercise his discretion while awarding punishment by considering all the relevant facts and he is bound to record reasons for that. Since in the impugned punishment order, the learned D.M. has recorded the reasons for the said punishment his said order can not be termed as arbitrary and illegal. The punishment order does not seem to be wholly unreasonable, arbitrary and disproportionate for the fact that altogether twelve charges were framed against the delinquent.

For the aforementioned reasons, the impugned order of D.M., Gopalganj dated 14.07.2013 is upheld.

In the result, this appeal petition is dismissed.

Dictated and Corrected by me.

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Commissioner,
Saran Division, Chapra

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Saran Division, Chapra