

In The Court of Commissioner, Saran Division, Chapra

Service Appeal No. 301/2014

Bhanu Pratap Chauhan

Vrs.

D.M. Gopalganj

ORDER

01-06-2016- The instant appeal petition is directed against the impugned order passed by D.M. Gopalganj, as contained in memo No. 580/panchayat dt. 15.09.2014 whereby and whereunder, the appellant was dismissed from service.

The brief facts of the case are that the petitioner, Bhanu Pratap Chauhan S/o Late Nathuni Chauhan R/o Vill-Fatehpur, P.S.-Mirganj, Dist-Gopalganj was posted as panchayat Sachiv, at the relevant time, in Gram Panchayat Raj Karkataha, Block-kateya, Dist-Gopalganj. Further case is that he was caught red handed for taking bribe on 21.12.2010 and subsequently sent to jail. Thereafter, he was placed under suspension with effect from 22.12.2010 and when he was released from jail following bail granted by the Hon'ble High Court vide order in Cr. Misc. No. 13241/2011 on 14.07.2011, he submitted his joining in the subdivisional office, Hathua. Then on the report of BDO, Kateya, charges were framed and deptt. Proceeding was ordered by D.M. vide order dt. 06.05.2011. The conducting officer submitted his inquiry report after conducting the deptt. Proceeding which led to imposition of punishment to the tune of withholding of one annual increment against the delinquent employee by the D.M. Gopalganj vide order contained in memo No. 28/panchayat dt. 12.01.2013. Subsequently a deptt. proceeding was re-initiated against the appellant who was an accused in vigilance P.S. case No. 090/2010 dt. 22.12.2010 as per direction given in the video conferencing on 10.02.2014 and supplementary charges sheet was issued to the appellant. The conducting officer submitted his inquiry report to the disciplinary authority the D.M. Gopalganj, who on acting on the said report in which the charges of corruption like taking of bribe in cash for IAY scheme from one beneficiary was found true and as a result of the proved charges of corruption and misconduct the appellant was finally dismissed from service as ordered on 15.09.2014. Feeling aggrieved by the said punishment of dismissed from service, the petitioner has approached this Court by way of filing the instant appeal.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the appellant was inflicted with extreme punishment of dismissal from service for alleged charge of corruption which was a conspiracy. He further submitted that in the first inquiry report the appellant was held guilty only for violating the guidelines and govt. instruction for sectioning of IAY to the beneficiaries and for which he was inflicted with the punishment of the withholding of one increment but again a second inquiry was held and it was on the report of that the appellant has been dismissed from service which is illegal and arbitrary. The learned counsel also referred to a judgment of Hon'ble High Court passed in CWJC No. 4031/2014 on 21.07.14 in support of his contention. He lastly submitted that as the impugned order has been passed while reviewing the earlier order, which is not permissible under law, the said order can not be accepted and accordingly, this appeal needs to be allowed.

The learned Govt. pleader appearing on behalf of D.M. Gopalganj in his detailed argument submitted that the charges of corruption against the appellant was found true in the deptt. Inquiry as there was evidence like vigilance P.S. case No. against the appellant for taking bribe from one IAY beneficiary. He further submitted that the punishment of dismissal from service has been meted to the appellant as per provision contained in Rule-14 of the Bihar Govt. servant (classification, control and

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Appeal) Rules-2005 as amended so far as such the impugned order is a legal and valid order and so the instant appeal petition be dismissed.

Considering the fact and circumstances of the case, material available on records and on perusal of the impugned order it is seen that the order regarding punishment of dismissal from service has been passed by the disciplinary authority, the D.M. Gopalganj against the appellant for serious charges of misconduct as he was arrested red handed by vigilance team for taking bribe and subsequently case was also instituted against him vide vigilance P.S. case No. 090/2010 for the said offence. It is also seen that the appellant has not yet been discharged from the said criminal liability. It is also seen that the deptt. proceeding for the aforesaid charges against the appellant has been conducted duly by the conducting officer and the petitioner was granted sufficient opportunity in the entire proceeding. Even the disciplinary authority has also served second show cause notice to the appellant before awarding the said punishment of dismissal from service as such the said deptt. Inquiry leading to dismissal from service of the appellant can not be termed illegal or invalid. The learned counsel for the appellant failed to point out any specific infirmity in the said dismissal order. On the other hand the learned G.P. is of the view that the said dismissal order against the appellant for the proved charges of misconduct is correct and legally valid.

For the aforementioned reasons, the impugned order of D.M. Gopalganj is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

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Commissioner,  
Saran Division, Chapra

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Commissioner,  
Saran Division, Chapra