

In The Court of Commissioner, Saran Division, Chapra

Service Appeal No. 278/2014

Devendra Mishra

Vrs.

State of Bihar

ORDER

18.03.2014 — The instant appeal petition is directed against the impugned order passed by D.M. Gopalganj as contained in memo No. 496/Panchayat dt. 22.08.2014 whereby and whereunder, the appellant was inflicted with the punishment of withholding of one annual increment with no-cumulative effect.

The brief facts of the case are that the appellant Devendra Mishra S/o Panchanand Mishra at the relevant time was posted as Panchayat Sachiv in Gram Panchayat Yadopur Shukl of Gopalganj Sadar block of Gopalganj district. Further case is that a complaint was made by one Sohaib Raja before the Hon'ble Chief Minister on 28.06.2010 during his Vishwas Yatra which was inquired jointly by DDC and SDO, Gopalganj in which it was established that the said Panchayat Sachiv had committed irregularities in preparing the list of beneficiaries in family survey list 2007 and revisional survey-2009 against the guidelines issued by the Govt. and thereby he included the names of unsuitable person of Mukhiya's family and left the name of suitable person and also undistributed coupons were kept by him instead of returning the same to the block officer. A deptt. Enquiry was ordered and charges were framed against the appellant for the above irregularities vide memo No. 2074/Panchayat dt. 30.09.2011. Although two charges were framed against the appellants and the inquiry officer found the first charge as proved partially and the second charge was found true against the appellant. Thereafter, the D.M. Gopalganj, acting on the said inquiry report, imposed the aforesaid punishment to the appellant. Feeling aggrieved by the said punishment the appellant has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant submitted that the impugned order of punishment is against justice, enquiry and good conscience as the said order has been passed without considering the relevant facts of the case and without affording any opportunity of personal hearing. He further submitted that the appellant in his show cause reply clearly stated that he joined at Yadopur Shukla Panchayat on 10.10.09 and the said family survey list and its revision work was done by his predecessor and he also deposited the additional coupons in block office and also enclosed the receipt of that but these facts were not considered by the inquiry officer as well

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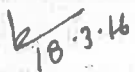
as by the D.M. He lastly submitted that as the punishment has been imposed on the appellant without examining the relevant documentary evidence, the said punishment is wholly unjustified and fit to be set aside.

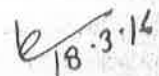
The learned Govt. pleader appearing on behalf of D.M. Gopalganj, on the other hand submitted that the impugned order is reasoned and valid as such the same is fit to be upheld. He further submitted that the charges leveled against the appellant was found true in the departmental inquiry and only after that the punishment has been ordered as such there is no occasion for this Court to interfere with the said order.

Considering the facts and circumstances of the case, pleadings advanced by the learned counsel for the parties and on perusal of the impugned order it is seen that two specific charges of misconduct was leveled against the appellant. Out of these two charges, first charge relating to commission of irregularities in the preparation of family survey list was found only partially true in the face of denial by the appellant that he was not posted during that time when the survey work was done. However, the second charge was found proved in the deptt. Inquiry and the punishment of withholding of one annual increment for the said offence can not be termed as excessive punishment. The learned counsel for the appellant failed to point out any specific lacuna in the said deptt. Proceeding or in the final punishment order so as to attract any interference from this Court.

Thus, for the aforesaid reason, the impugned order dt. 22.08.14 contained in memo No. 496/Panchayat is sustainable as such the same is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.


Commissioner,
Saran Division, Chapra


Commissioner,
Saran Division, Chapra