

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 15393 of 2006

Devendra Singh Rawal son of Sri Lal Singh Rawal, resident of village Rawalgaon,
P.O. + P.S. Bishar, District – Pithorgarh Utranchal.

.... **Petitioner**

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Old Secretariat, Patna.
2. The D.G. cum I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, B.M.P. Central Zone, Patna.
4. The Commandant, B.M.P.2, Dehri.

.... **Respondents**

Appearance :

For the Petitioner/s : Mr. Teg Bahadur Singh
Mr. Ram Hriday Prasad
Mr. Rakesh Kumar Singh
Mr. Purnendu Nr.Singh
For the Respondent/s : AC to GA-5

CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 03-02-2015

Heard learned counsel for the petitioner and learned A.C.
to Govt. Advocate – 5.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for setting aside Force Order No. 831/05 Dated 11-11-2005 passed by the Commandant, B.M.P.2, Dehri (**Annexure ‘3’** to the writ petition). By the said order, consequent to quashing of the order of the dismissal of the petitioner, the period, during which the petitioner was under-dismissal, was regularized as 57 days, as earned leave and 2528 days, as extra-ordinary leave.

It appears that the petitioner was earlier departmentally



proceeded and finally, he was dismissed from the service. The dismissal order was assailed by the petitioner at different level and after rejection of his memorial, he approached this Court by filing a writ petition, vide C.W.J.C. No. 109 of 1999. This Court considered the punishment as disproportionate to the charges leveled against the petitioner and quashed the order of the dismissal with a direction to re-consider the present punishment. The respondents were granted liberty to take a fresh decision with regard to the quantum of punishment.

In this case, a counter affidavit has been filed on behalf of respondents and it has been made clear that after the order of the writ court, the case of petitioner was examined and considering the gravity of the offence, he was imposed punishment of withholding of his two years increment, which is equivalent to three (B) black-marks. Subsequently, the period during which the petitioner was out of service, due to dismissal, has been regularized, vide **Annexure '3'** to the writ petition.

Learned counsel for the petitioner submits that the petitioner was illegally kept out of service due to punishment of dismissal, which has been set-aside by this Court and as such, the petitioner is entitled to get salary for the said period.

Keeping in view the fact that the period during which the

petitioner was absent and the fact that punishment order was interfered only on the ground that it was disproportionate, the Court is of the opinion that by way of regularizing the said period, the respondents have committed no error.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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