

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15420 of 2015

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1. Marsalan Aind Son of Late Markas Aind, Permanent resident of Village-Ukrimandi, Pakartoli, P.s Torpa, District Khunti (Jharkhand)

.... Petitioner/s

Versus

1. The State of Bihar
 2. Deputy Inspector General of Police, Railway ,Bihar Patna
 3. Railway Superintendent of Police, Katihar
 4. Railway Deputy Superintend of Police, Barauni,
 5. Railway Deputy Superintendent of Police-cum Conducting Officer, katihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate
 Ms.Anju Kumari @ Anju Narain, Advocate
 Mr. Pranab Bardhan, Advocate
 For the Respondent/s : Mr. JC to SC

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 11-12-2015 The petitioner was posted as Sub Inspector of Police on 22.4.2012 at Barauni Railway Police Station. He was entrusted with investigation work of Barauni Railway Police Station Case No.46/12 instituted by one Sunil Kumar of Sitamarhi for offences under Sections 328, 307, 379 of the Indian Penal Code against a co-passenger.

It is alleged by the informant Sunil Kumar that on 21.4.2012, he boarded 13021 UP Mithila Express in Sleeper Coach S2 at Durgapur Railway Station for coming to Muzaffarpur. In the night of 21/22.4.2012 at 2 AM, when the train



stopped at Barauni Railway Station, one unknown person aged about 45-46 years came and sat near him and became friendly. He took some money from the informant and brought fruity and biscuits which both of them consumed. Just after consumption of those items, the informant became unconscious and found himself in the Primary Health Centre, Raxaul. On regaining consciousness, he complained that his black bag which contained his laptop, its Charger, Data Card, ATM Cards and Credit Card worth Rs.25,000/- were missing. He suspected the hand of co-passenger. On the basis of his fardbeyan, Barauni Railway P.S. Case No.46 of 2012 was instituted.

The petitioner was entrusted with the investigation. On 30.6.2012, the Supervising Officer made a noting that there was no sufficient progress in the matter. The observation was reiterated again in his supervision note dated 19.7.2012. On 10.10.2012, the Supervising Officer again observed that though the investigation is proceeding, there is no desired progress and as such a recommendation was made for initiating a disciplinary proceeding which was started on 13.11.2014 itself. The Inquiry Officer recorded guilt of dereliction of duty. On the basis of the enquiry report and the explanation of the petitioner to the same, he was awarded punishment of forfeiture of six months salary increment

equivalent to one black mark with further direction that nothing would be paid for the suspension period from 9.11.2012 to 21.1.2014, save and except the subsistence allowance.

Being aggrieved, the petitioner filed an appeal before respondent No.2, Deputy Inspector General of Police, Railway, Bihar which was rejected vide order dated 7.11.2014.

The petitioner submits that the appeal has been rejected in one line finding that he showed lack of initiatives and aggressions in conducting the investigation, without considering his case. The petitioner further submits that the Appellate Authority failed to take into consideration that he had examined three witnesses namely Coolie, Cleaner and owner of Tea stall. He further submits that even the Supervision Officer in his supervision note stated that the matter is in progress. He submits that the successor Investigating Officer too closed the case as 'true but without clue'.

I find that the contention raised by the petitioner has not been addressed by the Appellate Authority, being the final Court of facts.

In the result, the impugned order dated 7.11.2014 passed by the Deputy Inspector General of Police, Railway, Bihar, Patna, respondent No.2, is set aside and the matter is remitted to the Appellate Authority for fresh consideration in accordance with

law. It will be open for the petitioner to make a prayer for personal hearing either himself or through his representative or attorney. It is expected that the appeal would be disposed of within a reasonable time.

This writ application is allowed to the extent indicated above.

(Samarendra Pratap Singh, J)

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