

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3882 of 2015

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1. Lalan Sharma, son of late Krishnadeo Singh, resident of village- Sihi, P.S-
Dulhin Bazar, District- Patna, at present posted as A.S.I., P.S.- Piprahi, District-
Sheohar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The D.G.P., Bihar, Patna.
3. The I.G., Tirhut Range, Muzaffarpur.
4. The D.I.G., Tirhut Range, Muzaffarpur.
5. The District Magistrate, Sheohar.
6. The S.P., Sheohar.
7. The S.D.P.O., Sheohar.
8. The B.D.O., Sheohar.
9. In-charge, Sheohar police station, District-Sheohar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ramakant Sharma, Sr. Advocate
Mr. Rajesh Kumar
Mr Gajendra Kr. Singh

For the Respondent/s : Mr. Ranjan Kr. Singh, AC to GP 29

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

CAV JUDGMENT

Date: 7-07-2015

Petitioner is an Assistant Sub Inspector of Police, who is seeking quashing of the order of punishment dated 1.2.2013 passed by the Superintendent of Police, Sheohar i.e. Annexure- 18 annexed with the supplementary affidavit of the petitioner. The order of punishment was imposition of one black mark amounting to stoppage of increment for six months. Petitioner filed appeal before the DIG, Muzaffarpur Range, who too after examining the materials and evidence coupled with the finding of guilt in the enquiry, upheld the order of punishment as would be evident from Annexure- 13, dated

15.6.2013.

2. A memorial before the DG of Police also did not beget the relief which the petitioner was looking for because even the memorial was rejected on 11.11.2014 (Annexure- 17). Petitioner wants quashing of these orders through this writ application.

3. At the relevant time which is said to be the Dushhara Puja time in the year 2012 petitioner was posted as Assistant Sub Inspector of Police at Sheohar Town Police Station to maintain law and order. A decision was taken at the level of the District Magistrate as well as the Superintendent of Police that adequate police force will be deployed at sensitive places. Executive Magistrates were also appointed to supervise and maintain law and order. Duty chart was issued. Petitioner was directed to station himself at Kahtarwa Chowk.

4. Two Mahibiri flags were taken out on the occasion. The bigger flag was kept static at Kahtarwa Chowk where three roads converged and one of the Mahabiri flag was permitted to go up to the Mirzapur Dhohibi. While the procession was returning, it got into some kind of law and order issue because a person was beaten up by the mob and some more nuisance and brick-batting etc. happened. Such flare-ups lead to communal issues, therefore, it put the district administration on its tenterhooks. The incident was contained.



However, when the festivity got over the disciplinary authority decided to take action against the petitioner for dereliction of duty because he did not accompany the procession to maintain law and order but left the responsibility upon a Choukidar, who obviously proved to be incapable to deal with such a situation. Annexure- 4 is the decision to initiate departmental proceeding with the charges.

5. Departmental proceeding was held. Adequate opportunity was given to the petitioner to defend his conduct. With all the evidence which finally came to be led in the enquiry it culminated into a report, holding petitioner negligent of his duty. Annexure- 9 is the detailed report based on which the order of punishment of imposition of one black mark was passed by the disciplinary authority, namely, the Superintendent of Police. The appeal and the memorial also got rejected.

6. Learned senior counsel representing the petitioner put forth the submission that he was not allowed to cross-examine a couple of witnesses from which it could be established that he was deputed to keep an eye at a particular spot and it was a static force. Nothing happened at the place he was deputed to maintain law and order and the petitioner did not get a fair opportunity to even otherwise defend himself in the proceeding.

7. The Court, therefore, called for the original record,



examined the file and even allowed the counsel to go through the same. Nothing startling as such emerges from the perusal of the record which in any manner vitiates the enquiry or the procedure. The two witnesses whom the petitioner now claims wanted to cross-examine are formal witnesses, who only proved the orders of deployment and direction passed by the superiors. These are official orders on record, which obviously cannot be denied by the petitioner. Even for the sake of argument, if it is accepted that the petitioner was not given an opportunity, there is no clear evidence that any serious prejudice had been caused to him for the said reason.

8. The enquiry was held over a period of time. Obviously, the best of the excuses which the petitioner could offer was offered but with the overbearing evidence being what it was, the conclusion of the petitioner being negligent and not performing his duty diligently is evident. He was an ASI. He could not have shifted the responsibility by asking a Choukidar to accompany the procession and especially in an area which the administration knows is sensitive and at times prone to communal flare-up. Sitamarhi has had history of riots.

9. The Court went through the evidence which have been discussed by the enquiry officer in quite a detail and opines that it is not a case where punishment in question requires any interference.

No legal flaw as such emerges either in the procedure or the quantum of punishment, which has been imposed upon the petitioner. The least of punishment which is imposition of one black mark amounting to withholding of increment/ raise in pay for six months cannot be said to be even excess or harsh in the given facts.

In the said facts and circumstances, the punishment orders do not merit any interference. Therefore, the writ application fails and is dismissed.

(Ajay Kumar Tripathi, J)

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