

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1168 of 2014

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1. Ruplal Chaudhary, Aged About 52 Years S/O Late Keshu Singh Resident Of
Bari Pahari, Biharsharif, P.S. Laheri, P.O. Sosarai, District Nalanda.

.... Petitioner/s

Versus

1. The State Of Bihar Through The District Collector, Nalanda Having His Office
At Collectorate, District Nalanda.
2. The Additional Deputy Collector, Nalanda Having His Office At Collectorate,
Nalanda.
3. The Circle Officer, Noor Sarai, District Nalanda.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. VIKAS MOHAN

For the Respondent/s : Mr. ARBIND KUMAR

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 23-02-2015

Heard learned counsel for the petitioner and the State.

It is stand of counsel for the petitioner that strange
type of order has been passed by the District Magistrate, Nalanda in
terms of Annexure 1. It is strange because the petitioner was charge
sheeted and proceeded departmentally. In the departmental proceeding
he has been exonerated.

Even the District Magistrate has accepted that position
in the impugned order. Despite that he went ahead and passed an
order of warning but also withholding 20% of salary of the petitioner
by directing to pay only 80% of the salary for the period of
suspension.

Petitioner has been exonerated. Charges are not proved. If it is, then where was the occasion of passing any kind of order which may have adverse impact on the service and claim of the petitioner.

In the counter affidavit filed on behalf of the respondents, this aspect of the matter has not been explained or even effort was not made to explain as to why this was required to be done.

If the District Magistrate felt that there was some material and omission in performance of duty of the petitioner, then there was an obligation upon him to at least issue a show cause before passing such an order. That is the least which is required in terms of the provisions of the Service code. In view of this Annexure 1, dated 1.11.2012 is quashed.

Writ application is allowed.

(Ajay Kumar Tripathi, J)

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