

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1388 of 2005

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Ramdeo Pd.Singh @ Ramdeo Singh son of late Gya singh, resident of village-Mora, Police Station-Bhagwanpur Hat, District-Siwan at present posted as Sub Inspector of Police in Constable Training School, Nath Nagar, Police Station-Nath Nagar, district-Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna Zone, Patna
4. The Additional Director General of Police, Patna Region, Patna
5. The Deputy Inspector General of Police, Central Range, Patna
6. The Senior Superintendent of Police, Patna
7. The Deputy Superintendent of Police, Patna City, District Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umesh Kumar Mishra, Adv.

Mr. Binod Kumar, Adv.

For the Respondent/s : GP 7

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 21-07-2016

Heard Mr. Umesh Kumar Mishra, learned counsel for the petitioner and learned counsel for the State.

The petitioner is aggrieved by the order bearing Memo No.2501 dated 31.3.2000 passed by the Senior Superintendent of Police, Patna whereby a punishment of stoppage of increment for six months without cumulative effect as well as forfeiture of salary for the period 1.6.1999 to 15.7.1999 on account of unauthorized absence by treating the same as extra ordinary leave has been passed and which order of the Senior Superintendent of Police stands affirmed in the appellate order dated 5.10.2001 of the Deputy Inspector General of Police, Patna Region. The orders passed by the disciplinary authority and the

appellate authority are impugned at Annexures- 3 and 6 respectively to the writ petition.

Facts of the case lie in a very narrow compass. While the petitioner proceeded on leave for a period of 10 days with effect from 21.5.1999 he continued thereafter until 16.7.1999 when he joined back his duty. Since no application was filed by the petitioner either for extension of leave either before or after joining that a departmental proceeding was initiated and has resulted in the impugned order(s).

Mr. Mishra relies upon the enquiry report at Annexure-2 to submit that while the Enquiry Officer has accepted the reasons for the over stay by the petitioner, this opinion has not been accepted by the Senior Superintendent of Police, who has proceeded to impose the penalty. According to Mr. Mishra once the disciplinary authority disagrees with the view of the Enquiry Officer then he would have to give his reasons for disagreement before passing the impugned order and serve a show cause to such effect.

As per Mr. Mishra it is on account of the illness of the wife of the petitioner that he could not join duty within time and the Enquiry Officer has taken note of the reasons so assigned. A counter affidavit is on record and the issue canvassed by the petitioner has been contested in the counter affidavit filed on behalf of the Senior Superintendent of Police supporting the impugned order and holding

the petitioner responsible on account of unauthorized absence.

I have heard learned counsel for the parties and I have perused the records.

Although the Enquiry Officer has recommended for a sympathetic consideration of the case of the petitioner for the reasons assigned by him regarding ailment of the wife but according to the Senior Superintendent of Police the reason assigned, was not a case of sympathetic consideration rather the petitioner had over stayed his leave period.

In my opinion, in absence of any application on record filed by the petitioner seeking extension of his leave period, a mere production of certain medical prescriptions of a date subsequent to the joining cannot enure to the benefit of the petitioner nor can be an explanation for his over stay. In the circumstances, where the petitioner has not even bothered to make a prayer for extension of his leave by a written application, my opinion is that the disciplinary authority has been rather reasonable in imposition of the penalty which calls for no interference.

The writ petition is disposed of.

Bibhash/-

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Uploading Date	3.8.16
Transmission Date	

(Jyoti Saran, J)