

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12371 of 2016

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Pankaj Kumar Son of Late Shyam Sundar Prasad, resident of Mohalla Ishaque Chak, P.S Ishaque Chak, District Bhagalpur, at present posted as Assistant Sub Inspector, Excise in the Office of Superintendent of Excise, Purnea.

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Registration, Excise and Prohibition, Department, New Secretariat, Bihar, Patna.
2. The Commissioner, Registration, Excise and Prohibition, Department, New Secretariat, Bihar, Patna.
3. The Secretary to Commissioner, Registration, Excise and Prohibition, Department, New Secretariat, Bihar, Patna.
4. The Superintendent of Excise, Purnea.

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Kaushalesh Choudhary

Mr. Shambhu Nath Jha,

For the Respondent/s : Mr. LALIT KISHORE- PAAG

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 27-10-2016

Heard Mr. Kaushalesh Choudhary, learned counsel for the petitioner and Mr. Anshuman Singh, Assisting Counsel to PAAG-1.

The petitioner is aggrieved by the order bearing Memo No. 3173 dated 05.7.2016 passed by the Excise Commissioner, Department of Registration, Excise and Prohibition whereby the petitioner holding the post of Sub-Inspector, Excise Department of Excise, Purnea has been reverted to the post of Assistant Sub-Inspector, Department of Excise.

It is not in dispute that this punishment order was passed

without holding a duly constituted proceeding as mandated under Rule 14 read with Rule 17 of the Bihar Government Servants (Classification, Control & Appeal) Rules which *inter alia* prescribes a procedure for imposition of major penalty. It is also not in dispute that the punishment imposed is a major penalty for it reduces the petitioner in rank permanently.

In the circumstances, the punishment order impugned at Annexure-12 passed by the Excise Commissioner, Purnea bearing Memo No. 3173 dated 05.7.2016 cannot be upheld and is accordingly quashed and set aside.

The writ petition is allowed.

The order would not preclude the authorities from proceeding against the petitioner afresh but in accordance with law.

(Jyoti Saran, J)

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