

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18801 of 2013

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Ram Parikshan Gupta Son Of Late Saudagar Sah Resident Of Village- Thadhi,
P.S.- Andhrathadhi, District- Madhubani Petitioner

Versus

1. The State Of Bihar
 2. The Director General Of Police, Government Of Bihar, Patna
 3. The Inspector General Of Police, Range At Muzaffarpur, Government Of Bihar, Patna
 4. The Deputy Inspector General Of Police, Tirhut Range At Muzaffarpur
 5. The Senior Superintendent Of Police, Muzaffarpur At Muzaffarpur
 6. The Deputy Superintendent Of Police- West At Muzaffarpur
- Respondents
- =====

Appearance :

For the Petitioner : Mr. Sarva Deo Singh, advocate
For the Respondents : Mr. Sanjay Pandey, GP 21 and
Mr.Manish Kumar,AC to GP 21.

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 16-05-2016

The petitioner seeks quashing of order dated 29.2.2012, passed by the disciplinary authority, namely, Deputy Inspector General Of Police, Tirhut Range At Muzaffarpur (respondent no.4) by which he has been dismissed from service. He has also prayed for quashing the order, dated 12.2.2012, passed by the appellate authority, namely, the Inspector General Of Police, Muzaffarpur Zone, Government Of Bihar, Patna (respondent no.3), and order dated 7.5.2013, passed by the Director General of Police, Government Of Bihar, Patna (respondent no.2), by which his appeals have been rejected.

2. The petitioner was appointed as Sub inspector of Police



in Bihar in the year 1994, by the then Director General cum Inspector General of Police (Administration), Bihar, Patna. A copy of the appointment letter is contained in annexure 2. In the year 2007, the petitioner was posted as Station House Officer (SHO) of Bochaha Police Station in Muzaffarpur district. According to the respondents, the petitioner was arrested while accepting bribe of Rs.10,000/- from one Santosh Kumar in a trap case. Petitioner was both criminally and departmentally proceeded. A vigilance case, being vigilance case no. 90 of 2007 was registered on 2.8.2007 under Section 13 of the Prevention of Corruption Act. He was departmentally proceeded and after completion of departmental enquiry, the enquiry officer submitted a finding of guilt in his enquiry report, dated 23.3.2008. A copy of the enquiry report is contained in Annexure 11. Thereafter, the disciplinary officer (respondent no.4) awarded punishment of dismissal from service vide order dated 29.2.2012. Appeals filed too were rejected.

3. The petitioner has assailed the impugned order on a number of grounds. He submits that the appointing officer has himself become an enquiry officer in this case. He was neither afforded reasonable opportunity to defend himself in the enquiry nor a copy of the enquiry report was provided to him. He was

also not given an opportunity to cross examine the relevant witnesses.

4. On the other hand, while controverting petitioner's submission, learned State counsel states that all the relevant documents were made available to the petitioner. The petitioner was given sufficient opportunity to reply to the charges in the departmental proceeding. Learned counsel next contended that there was no violation of principles of Natural Justice.

5. Though a number of points have been taken by the petitioner, the writ petition can be disposed of on a limited point that the power of disciplinary authority has been exercised by the DIG Tirhut Range, Muzaffarpur (respondent no.4), who is subordinate to his Appointing authority, namely, the Director General cum Inspector General of Police (Administration), Bihar. It is relevant to state here that in 1994 a number of Sub inspectors were appointed by Baljit Singh, Director General cum Inspector General of Police, Bihar. It is true that under the Police Manual, a DIG of Police is competent authority to make appointment to the post of Sub inspector but in the instant case, the petitioner has been appointed by the Director General cum Inspector General of Police, Bihar, thus he could not have been punished by an officer subordinate to the appointing authority.

6. State has filed counter affidavit in the matter. From perusal of the counter affidavit, it appears that there is no averment to the effect that the petitioner had earlier been supplied a copy of the enquiry report, before passing order of punishment.

7. For the foregoing circumstances, the order of punishment passed by the Disciplinary authority and appellate authority are quashed and the matter is remitted to the disciplinary authority (an officer in the rank of I.G. of Police, Bihar).As the matter is old, it will be open for the petitioner to file his fresh show cause reply to 2nd show cause within a period of six weeks from the date of receipt of this order. Thereafter the disciplinary authority would pass appropriate order in accordance with law.

8. It will be open for the petitioner to raise all his points in his show cause reply.

9. The Writ petition is thus allowed to the extent indicated above.

(Samarendra Pratap Singh, J)

Shashi.

AFR/NAFR	
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