

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12052 of 2008

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Birju Paswan, Constable No. 235, son of Ambika Paswan, resident of Village-
Visilpur, Police Station- Arwal, District- Arwal. Petitioner.
Versus

1. The State of Bihar
 2. Directorate General of Police, Sachivalaya, Patna.
 3. Deputy Inspector General of Police, Muzaffarpur.
 4. The Superintendent of Police, Muzaffarpur.
 5. The Police Inspector, Police Centre, Muzaffarpur
 6. Sub-Inspector of Police, Conducting Officer, K.P. Karn, Police Centre,
Muzaffarpur. Respondents
- =====

Appearance :

For the Petitioner/s : Mr. S.K.Tiwary, Advocate
For the Respondent/s : Dr. Raj Kumar Singh, AC to SC 8

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 13-01-2016

Heard learned counsel for the petitioner and the respondents.

2. The petitioner was appointed as a constable. He was proceeded departmentally for being unauthorizedly absent from 20.09.2001 to 25.07.2002. A proceeding was initiated against him, in which finding of guilt was recorded. Thereafter the disciplinary authority inflicted punishment of dismissal. The petitioner filed appeal and memorial, which too were rejected.

3. Counsel for the State has justified the order of dismissal on the ground that the petitioner on earlier occasions had remained on unauthorized leave, for which a proceeding was started and was duly punished.

4. On the other hand, the petitioner submits that no

second show-cause was given to him on conclusion of the enquiry report, which would have enabled him to make his response against the findings recorded by the enquiry officer against him. There is no averment in the counter affidavit, which would demonstrate that second show-cause notice was given to him. The fact that the said notice was given even, is not reflected from any of the documents on record.

5. I find that the proceeding suffers from serious infirmities on account of non-issuance of second show-cause notice on the petitioner.

6. In the result, the impugned orders of punishment are set aside and the matter is remitted to the disciplinary authority to proceed afresh from the stage of issuance of second show-cause notice.

7. It is expected that the disciplinary authority would conclude the proceeding within a period of four months from the date of receipt of a copy of this order.

8. This writ application stands allowed to the extent mentioned above.

(Samarendra Pratap Singh, J.)

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