

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14699 of 2013

Bhagwan Tiwari, son of Sri Vrindavan Tiwary, Resident of Village + P.O- Lahang Dumaria, P.S- Bihiya, District- Bhojpur, Presently Residing At Mohalla- Kashyap Nagar, Near State Boring, Arrah, P.S- Nawada, District- Bhojpur.

.... Petitioner

Versus

1. The State Of Bihar, through Home Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna
3. The Zonal I.G. Patna.
4. The D.I.G. Shahabad Range, Dehri on Sone, (Rohtas)
5. The Superintendent of Police, Buxar
6. The Dy. S.P. (Head Quarter), Buxar.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Viveka Nand Pathak, Adv.

For the Respondent/s : Mr. Harun Quareshi, A.C. to S.C.-1

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 10-11-2016

Heard learned counsel for the petitioner and learned counsel for the State.

In this case, the petitioner is challenging the order of the Superintendent of Police, Buxar, dated 31.5.2012, whereby and whereunder he has not granted 30 days leave to the petitioner and directed for deduction of the amount for the aforesaid period of leave. Against that order, the petitioner has moved before the appellate authority. The appellate authority has rejected the appeal of the petitioner vide order containing Memo No.762 dated 24.08.2012, holding that medical certificate submitted by the

appellant does not inspire any confidence.

The petitioner is a member of Bihar Police Force, had gone for 8 days leave, but as per the petitioner, he had fallen ill and over stayed for 30 days. The ground has been given that during that period he was under treatment and he was so weak unable to discharge the duty and doctor has advised him to take rest. When the petitioner has recovered, he reported the duty and filed an application for leave, but the same was rejected by the Superintendent of Police, Buxar. Thereafter, the petitioner filed an appeal, annexing the medical certificate, but the appellate authority by a cryptic order has rejected the appeal of the petitioner.

The appellate authority is always discharging the *quasi judicial* function, it must pass a proper order with the proper reasons so that the litigant or the higher authority could know the reasons for rejecting or allowing the claim of the litigant as the reason is stated to be a part of the natural justice as has been held by the Hon'ble Supreme Court in the case of ***P.C. Kakkar vs. Chairman and Managing Director, United Commercial Bank and Others***, reported in ***2003 (4) S.C.C., 364***.

In such view of the matter, the order of the appellate authority dated 24.08.2012 is set aside. The matter is remanded back to the appellate authority to pass a reasoned order in accordance

with law after giving proper hearing to the present petitioner.

With the aforesaid observations and directions, this writ application is allowed.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	16.11.2016
Transmission Date	