

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1432 of 2015

IN

Civil Writ Jurisdiction Case No. 17654 of 2008

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Yugeshwar Prasad Singh, Son of Late Suban Singh, resident of Village+P.O.-
Sardiha P.S.- Simri Bakhtiyarpur, District- Saharsa. Presently residing at Gautam
Nagar, Gangjala, Ward No.17, West of Dr. C.M. Choudhary, P.S.- Sadar in the
district of Saharsa.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Home (Special) Department, Government of Bihar, Old
Secretariat, Patna.
3. The Deputy Secretary, Home (Special) Department, Government of Bihar, Old
Secretariat, Patna.
4. The Inspector General of Prisons, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Raj Kumar and Mr. Vijay Kumar

For the Respondent/s : Mr. Mrigendra Kumar, AC to GA 4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 11-09-2017

Seeking exception to an order dated 07.05.2015 passed by
the learned Writ Court in CWJC No. 17654 of 2008 this appeal has
been field under Clause 10 of the Letters Patent.

The appellant herein was working as a Warden and in the
relevant time was posted in Sub Jail, Jamui, when one prisoner,
namely, Bishwanath Singh @ Niranjan Kumar was lodged in the jail.
It is alleged against the petitioner that Shri Bishwanath Singh @
Niranjan Kumar was accused and a production warrant was issued for



the purpose of his summon in connection with Lakhisarai PS Case No. 397 of 2004 for offence under Section 302/34, IPC and Section 27 of the Arms Act. It is alleged that the appellant even though he received the production warrant in jail released the accused person from Sub Jail, Jamui on 20th July, 2016 and thereby committed acts of both misconduct and negligence for which the enquiry in question was conducted and punishment of withholding of three increments without cumulative effect was imposed. Challenging the aforesaid punishment the writ petition was filed and the learned Writ Court has dismissed the writ petition.

It is argued by learned counsel for the appellant that from the evidence and material that come on record and in the explanation submitted by the petitioner, it is clear that the production warrant was not placed before the petitioner. It was received by a Clerk in jail and as the Clerk did not present it before the petitioner, it is said that the petitioner was not aware of the production warrant and released the accused person. However, the departmental authorities have considered all these aspects and they have found that the appellant being the person responsible in the matter before releasing the accused he should have verified from his subordinates with regard to involvement of the accused person in any other case and thereafter taken a decision and he is found to have acted in a negligent manner



causing an enquiry and imposition of the impugned action which has been upheld by the learned Writ Court and we find no error in the order dismissing the writ petition. The petitioner should have taken more care and would have been vigilant enough before releasing an accused convicted under Section 302/34, IPC and Section 27 of the Arms Act. Whereas serious action should be taken it seems that the petitioner has been let off leniently by only passing the punishment withholding three increments. However, as the appellant has now retired after attaining the age of superannuation the matter has to be dropped.

Taking note of all these circumstances, we see no reason to make any further indulgence. The appeal is dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	13.09.2017
Transmission Date	N.A.

