

## IN THE HIGH COURT OF JUDICATURE AT PATNA

### Civil Writ Jurisdiction Case No.10936 of 2008

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Uday Shankar Roy, s/o Late Krishna Murari Roy, r/v- Khajpura, P.s. – Airport,  
District- Patna, at present posted as Driver Hawaldar of Police at State Cabinet  
Vigilance Vidyut Bhawan, Bailey Road, Patna

.... .... Petitioner/s

Versus

1. The State of Bihar
2. The Director-cum-Inspector General of Police (Vigilance) Parishad Vidyut Cell  
Vidyut Bhawan, Patna
3. The Additional Director General of Police, Vigilance Department, Bihar, Patna
4. The Additional Director General of Police, Cabinet Vigilance Vidyut Bhawan  
Praishad, Vidyut Bhawan, Patna
5. The Superintendent of Police, Cabinet Vigilance Cell Vidyut Bhawan, Patna
6. The Deputy Superintendent of Police, Cabinet Vigilance Vidyut Parishad cell  
Bhawan, Patna

.... .... Respondent/s

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#### Appearance :

For the Petitioner/s : Mr. Dhaneshwar Prasad Gutpa, Adv.  
For the Respondent/s : Mr. S.D. Yadav (AAG-9)  
Mr. Rakesh Kumar (Spl.PP)Vig.

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**

ORAL JUDGMENT

**Date: 06-02-2017**

Heard Mr. Dhaneshwar Prasad Gupta learned counsel  
appearing on behalf of the petitioner and Mr. S.D. Yadav learned  
AAG – 9 for the State.

The petitioner seeks quashing of office order no.  
17/2008, as contained in Memo No. 131 dated 06.02.2008 issued  
under the signature of Additional Director General of Police  
(Vigilance), Bihar, Patna by which two increments of the petitioner  
was withheld.

Facts which are relevant for the disposal of this writ



petition are that petitioner was a Constable and working as Hawaldar Driver. Show-cause was issued to the petitioner as to why he remained absent on 20.04.2004 vide Memo No. 449 dated 11.05.2004. The petitioner submitted his show-cause. The Enquiry Conducting Officer did not find the charge proved and he simply found that the petitioner came on duty after one hour. The Superintendent of Police, Vigilance Department censored the petitioner on 06.12.2007. The petitioner did not prefer any appeal, but the Additional Director General of Police (Vigilance), Bihar, Patna *suo motu* called for the record and inflicted punishment, stopping of two annual increments of the petitioner vide order, as contained in Memo No. 131 dated 06.02.2008.

Learned counsel for the petitioner submits that the petitioner was not heard before passing the order stopping the two annual increments of the petitioner. The order is in violation of Principle of Natural Justice.

Mr. S.D. Yadav learned A.A.G. – 9 has very fairly submitted that from the order, as contained in annexure-10, it appears that the petitioner was not heard.

Having considered the facts aforesaid, I find that the office order no. 17/2008, as contained in Memo No. 131 dated 06.02.2008 annexure-10 is passed without hearing the petitioner and



therefore, the same is not sustainable. Accordingly, the aforesaid order, as contained in Annexure-10 is quashed.

If the authority concerned, so desires may pass order afresh in accordance with law after hearing the petitioner.

Accordingly, the writ petition is allowed.

**(Prabhat Kumar Jha, J.)**

Vinita/-

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