

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9765 of 2014

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Vijay Kumar Sharma @ Vijay Sharma Son of Late Sheo Nandan Singh Resident of Village- Oiyoura, P.O- Bir, P.S- Dhanaura, District- Patna, at present residing at New Police Line, Lodipur, Patna.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Deputy Inspector General of Police, Central Zone, Patna.
3. The Senior Superintendent of Police, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Yogesh Chandra Verma, Sr Advocate with
Mr Indu Shekhar Dwivedi, Advocate

For the S t a t e : Mr H S Roy, AC to AG

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 30-11-2017

Heard counsel for the petitioner and the State.

2 The allegation against the petitioner is that, along with other Constables, he was on duty as Armed Escort Party and did not take action against criminals when they hurled bombs at the transport van. The case of the petitioner is that the Police Inspector, Patna, who had conducted the proceedings, had submitted a report finding the petitioner not guilty of the charges. However, the Senior Superintendent of Police (for brevity, *SSP*), Patna, acting as a disciplinary authority, has disagreed with the findings of the enquiry officer and imposed the punishment of withholding one annual increment equivalent to two black marks and further that the



petitioner would not be entitled to any other payment other than what has been made during pendency of the proceedings. The order of punishment, disagreeing with the findings of the enquiry officer, is dated 20.03.2012 issued by the SSP, Patna. From the counter affidavit filed on behalf of respondent No 3 that is the SSP, paragraph 9 therein shows that the disagreement with the findings of the conducting officer has been recorded without affording any opportunity to the petitioner to make any representation. It is trite law that whenever the disciplinary authority disagrees with the enquiring authority then before it records its own findings on such charge, it must record his tentative reason for such disagreement and give to the delinquent an opportunity to represent only then the principles of natural justice can be said to have been followed. In this connection, this Court would refer to the decision in the case of *Punjab National Bank & Others –Versus- Kunj Behari Misra, (1998) 7 Supreme Court Cases 84*.

3 In view of the admitted position that the disagreement has been recorded without affording any opportunity to the petitioner, the impugned order dated 20.03.2012, as contained in Memo No 4697, issued by the SSP, Patna is quashed. The SSP, Patna would, however, be at liberty to examine the matter afresh after giving



opportunity to the petitioner in accordance with law.

4 The writ petition is allowed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
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