

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7916 of 2014

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Parmatma Dubey son of Late Kashinath Dubey resident of village- Panjawar, P.S.-
Raghunathpur, District- Siwan

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar Patna
2. The D.G. of Police Bihar Patna
3. The D.I.G. Eastern Range Bhagalpur
4. The S.P. Naugachia

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ebrahim Kabir

Ms. Shruti Sinha

For the Respondent/s : Mr. Sunil Kumar, A.C. to G.P. 11

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 08-08-2017

Heard both sides.

2. The petitioner in this writ petition seeks quashing of the order dated 24.07.2011 passed by the S.P. Naugachia as contained in Memo no. 3084 by which six months increment of the petitioner was withheld.

3. The learned counsel for the petitioner submits that the petitioner did not attend his duty after leave on 05.03.2011 and for that a departmental inquiry was held. The Inquiry Officer submitted his report on 08.07.2011 and reported that the petitioner fell ill and therefore, he could not join his duty in time. The leave of absence of the petitioner can be regularized, but the S.P. Naugachia differing



with the finding of the Inquiry Officer inflicted the punishment of stoppage of six months increment of the petitioner on mere presumption that the petitioner knowingly remained absence from his duty. It is further submitted that if the Disciplinary Authority differs with the finding of the Inquiry Officer, the Disciplinary Authority should have asked second show cause from the petitioner with regard to point of difference with the finding of the Inquiry Officer. Therefore, the order is illegal. The Appellate Authority also dismissed the appeal of the petitioner without taking into consideration these facts.

4. On the contrary, the learned counsel for the State submitted that no second show cause was required as the punishment is minor in nature.

5. Having considered the submissions of the parties and on perusal of the order as contained in Annexure-4, I find that the Disciplinary Authority on the receipt of the inquiry report differed with the finding of the Inquiry Officer and held that the petitioner intentionally did not attend his duty in time although the Inquiry Officer in his report, reported that the petitioner fell ill and he was prevented from attending the duty on account of his illness. Therefore, I find that the order is not sustainable. Accordingly, the order dated 24.07.2011 as contained in Memo no. 3084 as well as the



order dated 27.09.2011 as contained in Memo no. 1435 are set aside and the matter is remitted to the Disciplinary Authority to pass afresh order in accordance with law. Accordingly, the writ petition is allowed.

(Prabhat Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.08.2017
Transmission Date	

