

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8773 of 2014

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1. Bhagat Prasad Yadav, S/o late Ram Sunder Yadav, R/o Vill. Khajuria, P.S.- Ara Muffasil, Dist.- Bhojpur, A/P Constable, Govt. Railway Police, Patna

.... Petitioner/s

Versus

1. The Govt. of Bihar, through the Principal Secretary, Home (Police), Department, Bihar, Patna
2. Director General cum Inspector General of Police, Bihar, Patna
3. Deputy Inspector General of Police, Shahabad Range, Dehri on Sone.
4. District Superintendent of Police- Buxar

.... Respondent/s

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Appearance :

For the Petitioner	: Mr. Ram Yash Singh
For the Respondents	: Mr. Kameshwar Kumar, G.P. 17 Mr. S.K. Ranjan, AC to GP 17

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 04-08-2017

Heard both sides.

2. The petitioner filed this writ petition for quashing the order dated 22.03.2007 as contained in Letter No. 871/R.O. corresponding to District Order No. 319/2007 (Annexure-1) of Buxar district by which the petitioner has been dismissed from the service without holding any departmental proceeding. The petitioner also prayed for quashing the order passed by the Deputy Inspector General of Police, Shahabad Range, Dehri on Sone as contained in Letter No. 1534/G.S. dated 10.12.2007 (Annexure-2) and the order dated 30.08.2013 passed in Memo No. 2566/p-3 (Annexure-8) by the Direction General of Police, Bihar, Patna.



3. Learned counsel for the petitioner submits that S.P., Buxar dismissed the petitioner from the services on the ground that the petitioner did not obey the order of transfer and he contested the election of Police Men's Association, Buxar even after the order of transfer. It is further submitted that without holding any departmental enquiry, the petitioner has been dismissed from the service. The petitioner, therefore, preferred appeal before the Deputy Inspector General of Police to set aside the order of the S.P., Buxar, dismissing the services of the petitioner and inflicted punishments and the memorials of the petitioner has also been dismissed on the ground that same is not maintainable. It is further submitted that punishment without holding any departmental enquiry is bad and not sustainable. The case of the petitioner for disobeying the order of transfer does not come within the purview of Article 311(2)(b) of the Constitution of India which envisages that when on a graver and severe charge the employee can be dismissed without holding departmental enquiry but, in the present case the only charge is that the petitioner did not obey the order of transfer and contested the election of Police Men's Association, Buxar.

4. Learned counsel for the State is not in a position to defend the order which is passed without following any procedure meant for inflicting punishment against a constable.

5. Having considered the submissions of learned counsel



for the petitioner and the State and on perusal of the records, I find that the S.P., Buxar simply dismissed the services of the petitioner on the ground that the petitioner was transferred from Buxar district in pursuance of the order of the High Court but, the petitioner did not join his new place of posting and contested the election of Police Men’s Association, Buxar. On the face, it appears that this case does not fall within the purview of Article 311(2)(b) of the Constitution of India. It is simply a case of disobedience of order of transfer and any punishment for such charge should have been inflicted after holding departmental enquiry in accordance with law.

6. The order of dismissal has already been set aside by the appellate authority i.e. Deputy Inspector General of Police, Shahabad Range, Dehri on Sone but DIG too inflicted punishment therefore, the order as contained in Letter No. 1534/G.S. dated 10.12.2007 (Annexure-2) passed also is set aside. Accordingly, this writ petition is allowed.

7. The matter is remitted to S.P., Buxar to proceed further in accordance with law.

(Prabhat Kumar Jha, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.08.2017
Transmission Date	NA

