

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10930 of 2008

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Ramanandan Prasad Singh, Son of Late Bengali Singh of Village Shrampur
P.O.+P.S. Silao, District – Nalanda.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The D.G. cum I.G. of Police Bihar, Patna.
3. The D.I.G. of Police Champaran Range, Bettiah.
4. The S.P. Motihari

.... Respondents

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Appearance :

For the Petitioner : Mr. Teg Bahadur Singh, Advocate.
Ms. Nirmala Kumari, Advocate.

For the Respondents : Mr. (AAG8)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 16-02-2017

Heard both sides.

2. The petitioner by filing this writ petition seeks quashing of the Order No. 88 of 2002 dated 15.03.2003 issued under the signature of Superintendent of Police, East Champaran, Motihari as contained in Annexure-3 by which the future increment of the petitioner has been stopped besides no other payment save and except subsistence allowance shall be paid to the petitioner during his suspension period. The petitioner further seeks quashing of Annexure-4 the order of the Deputy Inspector General of Police as contained in Memo No. 799 dated 27.07.2007.

3. The brief facts which are relevant for the disposal of this writ petition are that the petitioner was posted as ASI in the year 1994



in the district of East Champaran, Motihari his service revolver was stolen for that a police case was registered. The petitioner was charged for negligence in missing of revolver and 30 round cartridges. Vide order dated 28.07.2002 as contained in Memo No. 1692. The enquiry report was submitted and the disciplinary authority withheld the entire future increment of the petitioner besides other punishment vide Annexure-3 and the appellate authority also confirm the aforesaid order vide Annexure-4 dated 27.07.2007.

4. Learned counsel for the petitioner assailed the order on the ground that according to the Rule 832 of Bihar Police Manual if any increment is stopped the disciplinary authority should mentioned the time of stoppage of increment.

5. On the other hand learned counsel for the State has submitted that the order does not require any interference as according to the Rule 824 (E) of the Bihar Police Manual the disciplinary authority can forfeit last increment or increments or future increments. The sole question arises as to whether the order passed by the disciplinary authority is in accordance with law? Rule 824 of the Bihar Police Manual read as follows:

824. Description of departmental punishments.-

The following punishments which are sanctioned under section 7 of Act V of 1861 may be inflicted departmentally



on a police officer of and below the rank of Inspector :-

(a) dismissal,

(b) removal,

(c) compulsory retirement,

(d) reduction in rank,

*(e) forfeiture of last increment(s) or future
increment(s),*

(f) black mark or marks,

(g) censure,

*(h) confinement to quarters for a period not
exceeding 15 days,*

(i) punishment drill,

(j) extra guard or fatigue duty

*Provided that the punishments mentioned in
clauses (h) and (i) shall be imposed only on members of
rank of constables/Havildars and that in clause (i) shall be
imposed only on constables.*

*832. Order of reduction. – (a) Every order
reducing an officer to a lower post or to a lower stage in his
time scale, or withholding an increment, shall state the
period for which it shall be effective.*

In cases of exceptionally grave wrong doing in



which a punishment less than dismissal or removal is considered adequate, the officer concerned may be retired compulsory instead of being kept permanently reduced to a lower post as such punishments of permanent nature causes loss of all incentives to future good work. No officer shall be reduced to a lower rank than that to which he was directly recruited.

Every order of withholding of increment or its reduction or forfeiture shall set forth the pecuniary penalty entailed thereby subject to a maximum on one month's pay as provided under section 7, Police Act.

6. From conjoint reading of Rule 824 and Rule 832 of the Bihar Police Manual, it appears that Rule 824 prescribed the punishments in case of a constable or any police officials below the rank of inspector is found guilty. Rule 832 qualifies the punishment to be inflicted and the manner of such punishment to be inflicted. Rule 832 particularly says that when the disciplinary authority orders for withholding the increment it shall state the period for which it shall be effective. From the order impugned as contained in Annexure-3 it appears that the disciplinary authority has not stated the period for forfeiture of future increments and, therefore, I think that the order is vitiated and not sustainable in the eye of law. Accordingly, Annexure-



3 as contained in Memo No. 593 dated 15.03.2003 issued under the signature of Superintendent of Police, East Champaran, Motihari and Annexure-4 the order of the Deputy Inspector General of Police as contained in Memo No. 799 dated 27.07.2007 are quashed. The matter is remitted to the disciplinary authority to pass order afresh in accordance with law within four months from the date of receipt/production of a copy of this order.

8. Accordingly, this writ petition is allowed as aforesaid.

(Prabhat Kumar Jha, J.)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2017
Transmission Date	

