

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9585 of 2014

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Gopal Jee Singh S/o Sri Ram Brat Singh resident of village - Sundarpur Kuriya,
P.O. Bailghat Baluan, P.S. Muffasil, Distt. - Bhojpur at Arrah

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. Director General of Police, Bihar, Patna
3. D.I.G. of Police, Military Police, Central Zone, Patna
4. Commandant B.M.P. - 4, Dumraon, Buxar

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Advocate
For the Respondents : Mr. R.K. Chandram, A.C. to G.P.19

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA

ORAL JUDGMENT

Date: 13-09-2017

Heard both sides.

2. The petitioner in this writ petition prayed for quashing the order dated 31.12.2012 issued by the Commandant B.M.P.-4, Dumraon by which the Commandant B.M.P.-4, Dumraon withheld the increments of the petitioner for two years and also ordered for non-payment of salary and other allowance except the subsistence allowance already paid to the petitioner. The petitioner also prayed to quash the order dated 15.5.2013 passed by D.I.G. in appeal of the petitioner by which the Appellate Authority dismissed the appeal.

3. Learned counsel for the petitioner assails the order of the Commandant B.M.P.-4, Dumraon by which his two increments for



two years has been stopped on the ground that the Enquiry Officer found the petitioner guilty for one day absence and other four charges with regard to taking wine and lying by the side of the road have not been proved. The Disciplinary Authority did not ask second show cause from the petitioner and inflicted punishment withholding increments for two years, which is equivalent to three black marks and considered as a major punishment under Rule 828 of Bihar Police Manual and, therefore, the order inflicting punishment is violative of principle of natural justice and not sustainable.

4. Learned counsel for the State has fairly submitted that it appears that no show cause has been asked for from the petitioner.

5. Having considered the submissions of both sides and on perusal of records, it is evident that after submission of the enquiry report of the Enquiry Officer, the Disciplinary Authority, Commandant B.M.P.-4, Dumraon ordered for stoppage of increment for two years and non-payment of salary and other allowance save and except the subsistence allowance already paid to the petitioner during the suspension period without giving enquiry report to the petitioner and calling him upon to show cause on the finding of enquiry officer. The petitioner has not been afforded proper opportunity to be heard before major inflicting major punishment. Therefore, I find that the order is vitiated on account of violative of principle of natural justice.



6. Accordingly, the writ petition is allowed. The order dated 31.12.2012 (Annexure-5) as well as the appellate order dated 15.5.2013 is set aside. The matter is remitted to the Disciplinary Authority to pass order afresh in accordance with law after giving show cause to the petitioner.

(Prabhat Kumar Jha, J)

N.H./-

AFR/NAFR	NAFR
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