

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16760 of 2011

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Bilas Paswan, S/o Garib Paswan, Resident of Batlohia, P.S.-PANDOL,
District-Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Patna Region, Patna.
3. The Deputy Inspector General of Police, Patna Central, Patna.
4. The Senior Superintendent of Police, Patna.
5. The Deputy Superintendent of Police, Danapur.
6. The Officer In Charge of Budda Colony Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Advocate
		Mr. Akash Keshav, Advocate
For the Respondent/s	:	Mr. Arvind Kumar, A.C. to G.A. 9

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL JUDGMENT

Date : 06-09-2017

Challenging the order of punishment dated 19.07.2007 (Annexure-4) issued by the Disciplinary Authority imposing punishment of stoppage of increment for one year with cumulative effect and the subsequent order dismissing his appeal as contained in Annexure-5 dated 15.03.2008, this petition has been filed.

Petitioner was working in the Police Department and on the basis of certain allegations levelled against him with regard to inquiry into P.S.Case No. 134 of 2006 instituted in Budha Colony Police Station in the matter of arresting an accused person Ram Bachan Yadav a charge-sheet was issued to the petitioner and thereafter an inquiry was constituted and



the Inquiry Officer submitted his report Annexure-3. Based on the aforesaid Inquiry Report the impugned action has been taken.

The ground raised by the petitioner in the writ petition is that the report of the Inquiry Officer is not a speaking order. It does not discuss the allegations levelled against the petitioner, the evidence and other materials that came on record and the finding recorded without adverting to consider even the statement of witnesses and other materials available on record, is a perverse finding. Placing reliance on a judgment of the Supreme Court in the case of **Anil Kumar Vs. Presiding Officer and others-A.I.R. 1985 Supreme Court 1121** learned counsel argues that the report of the Inquiry Officer is perverse inquiry report and based on the same any action taken is unsustainable.

Learned counsel for the respondents refuted the aforesaid contention and argued that as the action is taken on the basis of a properly conducted departmental inquiry, the impugned action is proper.

Having heard learned counsel for the parties and on perusal of the Inquiry Report Annexure-3 dated 16.05.2007, it is clear that the Inquiry Report is a single page Inquiry Report



and except for detailing the fact that the petitioner did not appear in the departmental inquiry and rebut the charges levelled against him, the only finding recorded by the Inquiry Officer is that after going through the statement of witnesses, the charges levelled and the documents produced, the charges are found to be proved.

The report of the Inquiry Officer is not a speaking order, it does not show application of mind, there is no discussion with regard to what are the allegations against the petitioner, what are the charges levelled against him, how the charges were proved, who are the witnesses examined to prove the charges, what is the statement of the witnesses, what are the documents that were produced and how the Inquiry Officer has analyzed the same and recorded a finding. The Inquiry Officer's report is in two line in Hindi and it reads as under:-

“साक्षी के बयान आरोप एवं प्रदर्श के अवलोकन से आरोपित के विरुद्ध लगाये गये आरोप की पुष्टी होती है।

अतः आरोपित दोषी प्रतीत होते हैं।”

If the aforesaid report of the Inquiry Officer is analyzed in the backdrop of the law laid down in the case of Anil Kumar (supra), it is clear that it is a perverse and illegal Inquiry Report and based on the same, no action could be taken against the petitioner. In Paragraph 6 of the judgment rendered



in the case of Anil Kumar (supra) the Hon'ble Supreme Court has laid down the principle that when a finding recorded by the Inquiry Officer is stigmatic in nature, has adverse effect on the career of an employee, the same should show application of mind and should be a reasoned order. If it does not meet the requirement of law, the same is a perverse order in violation to the principles of natural justice and any action taken on the basis of such a perverse Inquiry Report is said to be unsustainable.

Keeping in view the aforesaid, finding the report of the Inquiry Officer to be wholly perverse and contrary to law, the writ petition is allowed and the impugned orders dated 19.07.2007 (Annexure-4) and 15.03.2008 (Annexure-5) quashed.

(Rajendra Menon, CJ)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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