

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17843 of 2010

=====

Harinandan Rai, S/O Late Pradip Rai, R/O Vill.- Chanhutta, P.O.-Chanhuta, P.S.-
Aurai, Distt.- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna
3. The District & Sessions Judge, Sitamarhi
4. The Incharge Judge, Nazarat, Civil Court, Sitamarhi

.... Respondent/s

=====

Appearance :

For the Petitioner/s :

For the Respondent/s :

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 10-08-2017

Petitioner was working as a peon in the Civil Court, Sitamarhi. During Christmas day from 26.12.2001 to 01.01.2002, he was deputed as a night guard and a theft was reported to the District Judge concerned. Based on the preliminary enquiry conducted, a show cause notice was issued to the petitioner and finding his explanation to the show cause to be unacceptable, by the impugned order dated 07.02.2002 passed by the District Judge, punishment of stoppage of two increments with cumulative effect and withholding of salary has been imposed upon the petitioner.

It is an admitted position that stoppage of two increments with cumulative effect is a major punishment and as held by the Supreme Court in the case of **Kulwant Singh Gill v. State of Punjab**,



1991 Supp (1) SCC 504, such punishment cannot be imposed without conducting a regular departmental enquiry after issuance of charge-sheet under the Department Appeal and Revision Rules.

In the present case, only procedure of issuing show cause notice has been followed, which is a procedure for imposition of minor punishment. As stoppage of increments with cumulative effect has the consequence of depriving the employee of two increments throughout his career and consequently reducing his pay for all times to come, it has been held to be a major punishment in the case of **Kulwant Singh Gill** (Supra) and for imposing a major punishment, a regular departmental enquiry after issuance of show cause notice has been held.

That being so, as the action impugned is in contravention to law, this petition is allowed, the impugned order quashed and liberty shall be available to the respondents to proceed in accordance with law, if so advised.

(Rajendra Menon, CJ)

Sunil/-

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

