

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.352 of 2016

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1. Ram Lalit Prasad Singh Son of Chandeshwar Prasad, Resident of Village Gamharia, P.O. Gamharia, P.S. Majorganj, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Home Dept. Bihar, Patna.
2. I.G. (Inspector General Police Rail), Bihar, Patna.
3. D.I.G. Rail Police, Muzaffarpur, Bihar.
4. Superintendent of Police Rail, Muzaffarpur, District Muzaffarpur.
5. Dy. S.P. Rail, Muzaffarpur, District - Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravi Shankar Ganguli, Adv. Mr. Md. Shahnawaz Ali, Adv.
For the Respondent/s	:	Mr. Mritunjay Kumar, A.C. to AAG 6

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-12-2017

Heard Mr. Ravi Shankar Ganguli, learned counsel for the petitioner and Mr. Mritunjay Kumar, A.C. to AAG 6 for the State.

The petitioner is aggrieved by the order bearing Memo no. 1982/R/K dated 11.09.2015 of the Superintendent of Police, Rail, Muzaffarpur whereby he has been imposed a punishment of stoppage of one annual increment with non-cumulative effect which would be equivalent to two black marks. A copy of the order is impugned at Annexure-17 of the writ petition.

With the consent of the parties, the matter has been heard with the view to final disposal at the stage of admission itself.

The chargesheet against the petitioner is impugned at



Annexure-13 and charges the petitioner on six counts basically, revolving around his discharge of duty. In substance, the petitioner has been charged of dereliction of duty and casual approach in investigating into Rail P.S. Case No. 2 of 2015 registered under Sections 365, 379, 419 and 120B of the Indian Penal Code.

While through charge no. 1 the petitioner has been charged with not taking sufficient steps for arrest of other absconding accused in the police case it accepts the arrest of one Rupesh Giri. The charge no.2 alleges that the petitioner did not put questions on the recovery of looted items from the accused who had surrendered in the case with a view to prove them innocent in the case which reflected his suspicious character. Charge No.3 alleges that the petitioner while complying with the order of the Rail Magistrate to release the seized items did not inform the superior officers. Charge No. 4 charges that the petitioner did not follow the directives in the supervisory note as also charges him of merely completing formality while investigating into the matter. Charge No.5 alleges that the petitioner did not produce the case diary before the Court nor took steps for submission of chargesheet. Charge No.6 alleges that the petitioner did not act on the complaint of one Kiran Pal on her stolen bag and instituted an F.I.R only when directed by the Superintendent of Police.

Undoubtedly, while the charges mainly underscore the



petitioner on his inefficiency as an Investigating Officer of the police case and also cast suspicion on his role as a Police Officer and even though the Superintendent of Police while framing the charge has relied upon oral and documentary evidence but the enquiry report submitted by the Deputy Superintendent of Police, a copy of which has been placed on record vide Annexure-A to the supplementary counter affidavit mechanically upholds the charge without discussing the materials on which the opinion is based nor makes discussions on reasons to reject the stand taken by the petitioner.

To complete the sequence, the charges at Annexure-13 was duly replied by the petitioner vide Annexure-14 exhaustively dealing with each of the them while rebutting the same. Even before the Enquiry Officer the petitioner filed his defence statement which is placed at Annexure-15 reiterating the position. Annexure G (wrongly mentioned as 'Annexure A') to the supplementary counter affidavit is the Enquiry report upholding the charge and which is followed by the punishment order impugned at Annexure 17. Feeling aggrieved the petitioner is before this Court.

As I have said, though the charges appear very serious and fails the petitioner on his role as an Investigating Officer but the report at Annexure-G discusses no material to support the charge. Equally non-speaking is the order of penalty passed by the Superintendent of



police, Rail, Muzaffarpur which simply proceeds to reject the explanation given by the petitioner without assigning any reasons for such rejection. A holding of a disciplinary proceeding is a serious matter and more particularly where a police officer faces a charge on integrity as well as on his discharge of duty. The very fact that the Superintendent of Police while upholding such serious charge proceeds to only impose a penalty of stoppage of one increment with non cumulative effect, itself confirms that the charges lack foundation and has no legs to support. The exhaustive explanation given by the petitioner at Annexures-14 filed in response to the charge and at Annexure-16 which was filed before the Enquiry Officer, has neither been dealt by the Enquiry Officer, for its rejection nor the Superintendent of Police has bothered to examine the same. A mere submission that the explanation given by the petitioner to the charges is not satisfactory, is only a performance of formality and does not justify a quasi judicial exercise.

As I have observed, a disciplinary proceeding is a serious affair and requires a serious disposal which is missing in the present case because while the charges simply cast suspicion on the role of the petitioner as the Investigating Officer while also commenting on his inefficiency, it is by now well settled that neither an issue of inefficiency nor an allegation which is founded on suspicion can be a



basis for a disciplinary proceeding unless it is accompanied with substantive proof to connect the delinquent to the charge, which are missing in the present case for had they been existing, the result would have rather serious and not stoppage of increment with non cumulative effect.

For the reasons and discussions, the order of penalty bearing Memo no. 1982/R/K dated 11.09.2015 of the Superintendent of Police, Rail, Muzaffarpur impugned at Annexure-17 cannot be upheld and is accordingly quashed and set aside. The writ petition is allowed. The increments are restored together with arrears which should be paid to the petitioner within three months from the date of receipt/production of a copy of this order.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2017
Transmission Date	NA

