

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4208 of 2011

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Jag Jiwan Ram, S/O Late Manglu Ram, R/O Mohalla Pakri, P.O. - Arrah, P.S. -
Nawadah. Dist. - Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar, through the Home Secretary, Govt. Of Bihar, Patna
2. Director General Police, Bihar, Patna
3. Deputy Inspector General of Police, Darbhanga Range, Darbhanga
4. Superintendent of Police, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gauri Shankar Thakur, Adv.

For the Respondent/s : Mr. Anuj Kumar, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 03-07-2018

The present writ application has been preferred for setting aside the order of dismissal passed by the Superintendent of Police, Samastipur vide memo no.8541 dated 09.12.2008 (Annexure-5 to the supplementary affidavit filed on behalf of the petitioner). Petitioner has also prayed for quashing of the appellate order dated 09.04.2010 passed by the Deputy Inspector General of Police, Darbhanga Range, by which the appeal preferred against the order of the dismissal has been rejected.

Learned counsel for the petitioner has, for the purpose of this present writ application, at this stage, raised an issue based on the principles of natural justice. It is the specific case of the petitioner that he has been dismissed from service without giving adequate



opportunity to represent him in course of departmental proceeding. According to petitioner, even a copy of the enquiry report was not served upon him and he was not given any opportunity to controvert the findings recorded in the enquiry report. Earlier when this matter was heard on 14.05.2018, this Court took note of the submissions of the petitioner and passed an order in the following terms:-

“It is the specific case of the writ petitioner that in the departmental proceeding conducted against him, he was not served with any notice and in an ex-parte enquiry he has been held guilty. He has stated in paragraph 4(vi) of the writ application that the conducting officer submitted his findings without giving the petitioner an opportunity to be heard and even copy of the final show cause was issued without providing a copy of the findings of the conducting officer to the petitioner.

From the counter affidavit filed on behalf of the respondent no.4 it appears that no evidence has been enclosed with the counter affidavit to demonstrate that the summons were issued to the petitioner, the proof of dispatch of notice to the petitioner has not been brought on record.

In the aforementioned circumstance, this Court, in order to satisfy itself with the procedures adopted in the departmental proceeding, call for the entire records of the disciplinary proceeding.

Let learned counsel for the State produce the original records of the disciplinary proceeding on the next date of listing one week after summer vacation.”



Today, learned counsel for the State has placed before me a file which is said to be the file relating to the disciplinary proceeding. This Court is at total dismay and surprise both while going through the records produced before this Court. The records are not only scattered but even no order-sheet of the enquiry proceeding seems to have been maintained. There is no material available on record to find out as to whether any attempt was made to serve the notice of enquiry on the petitioner, on record at least there is no copy of the notice or proof of dispatch of such notice on the address of the petitioner. It seems from the records placed before this Court that the appellate authority while passing the impugned order has despite having taken note of the submission of the petitioner that he was not given an opportunity to defend himself did not go into that issue and has passed the impugned order as contained in Annexure-4. This Court is not satisfied with the manner in which the appeal preferred by the petitioner has been disposed off.

Keeping in mind what transpired from the records placed before this Court, the order passed by the Deputy Inspector General of Police, Darbhanga Range, Darbhanga, as contained in memo no.412 dated 09.04.2010 (Annexure-4 to the writ application), is hereby set aside. The appellate authority (respondent no.3) is directed to consider the appeal preferred by the petitioner afresh without being prejudiced



by his order, as contained in Annexure-4. Let the appeal prefer by the petitioner be disposed off within a period of three months from the date of receipt/production of a copy of this order. The appellate authority shall give an opportunity to the petitioner to submit any fresh ground within a period of 15 days from today and shall communicate his reasoned order to the petitioner immediately after disposal of the appeal within the aforesaid prescribed period.

The writ application stands disposed off.

Let the original records produce before this Court be returned to the learned advocate appearing for the State.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.07.2018
Transmission Date	

