

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 3020 of 2013

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Sri Bhuneshwar Ram, Warder Grade 'G' (Now Dismissed) S/O Late Ganesh Thakur, Adarsh Kendriya Kara, Beur Resident Of Village Korrah, Post Korrah, District - Hazaribagh (Jharkhand)

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary to the Government of Bihar, Home (Kara) Department
3. The Inspector General, Prison Bihar, Patna
4. The Joint Secretary-Cum-Director (Administration), Kara Nirikshanalay, Grih (Kara) Department
5. The Superintendent, Adarsh Kendriya Kara, Beur, Patna
6. The Superintendent, Mandal Kara, Jehanabad-Cum-Sanchalan Padadhikari

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ashok Kumar Sinha, Sr Advocate with
Mr Shambhu Sharan, Advocate

For the S t a t e : Mr Kameshwar Kumar, GP XVII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 12-07-2018

Heard the parties.

2 The learned Senior Counsel appearing on behalf of the petitioner submits that the quantum of punishment of dismissal from service on the allegation of concealing 80 sachets of *Lahri* in his shoes while entering the jail premises is not only shocking to the conscience and grossly disproportionate to the gravity of the charge but also in violation of the requirements of Rule 182 of the Bihar Jail Manual. Under Rule 182, such extreme penalty of dismissal can be awarded to the delinquent for commission of certain specified



offences and that the allegation against the petitioner does not come within the scope of Rule 182 of the Bihar Jail Manual. He points out with reference to the Memo of Appeal that the issue has been raised in the departmental appeal which has been rejected by the Principal Secretary, Home (Jail) Department under order dated 17.12.2012 bearing Memo No 5414 but the issue of punishment being contrary and in excess of provisions contained in the Bihar Jail Manual, noticed above, has not been considered by the Appellate Authority.

3 This Court has gone through the order passed by the Appellate Authority. Submission of the learned Senior Counsel appearing on behalf of the petitioner is correct. There is no consideration on the quantum of punishment with reference to provisions contained in Rule 182 of the Bihar Jail Manual.

4 This Court is conscious of its limitation as regards interfering with the quantum of punishment. Rule 182 of the Bihar Jail Manual makes it incumbent upon the Authority to consider the requisite quantum of punishment with reference to the said Manual, and having regard to the gravity of offence.

5 This Court would, thus, leave it to the Appellate Authority to reexamine the issue with reference to the limited issue of quantum of punishment having regard to the provisions in Rule 182 of the Bihar Jail Manual, and any other mitigating circumstances which



the petitioner may raise.

6 The petitioner may approach the Authority with such request by making a written representation along with a copy of this order within a period of two weeks from today.

7 In the event, such an application is filed, the Authority would be obliged to consider and dispose of the same in accordance with law within a period of eight weeks thereafter.

8 Writ petition is disposed of.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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