

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11489 of 2017

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Satish Kumar Sinha, S/o Late Mahendra Prasad Sinha, resident of House No. 7C/9A, West Anandpuri, Boring Canal Road, P.S.-Shri Krishnapuri, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar, through Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
2. The Under Secretary, General Administration Department, Govt. of Bihar, Patna
3. The Inspector General (I.G.), Prison, (Home Department, Bihar, Patna.
4. The Joint Secretary-cum-Director Home Department (Prison)

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent/s	:	Mr. Md. N.H. Khan-SC-1
		Mr. Babita Kumari, A.C. to S.C.-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 16-08-2018

Heard learned counsel for the petitioner and learned counsel for the State.

2. In this case, the petitioner is challenging the order containing memo no.1847 dated 16.02.2017, by which the punishment of censure for the year 2016-17 and stoppage of two increments with non-cumulative effect has been inflicted upon the petitioner.



3. In this case, the petitioner has taken plea that earlier the authority has decided to initiate a major penalty proceeding but later on, it was converted into a minor penalty proceeding, inasmuch as, without consideration of the explanation which the petitioner has filed, the order of punishment has been inflicted upon him.

4. The petitioner, at the relevant time, was posted as Section Officer and under his control there are four Sections. Allegation has been made that the petitioner has kept the review file of one Devendra Prasad with himself and has not placed the same before the reviewing authority to take decision in accordance with law. "Prapatra-K" was served upon the petitioner, whereafter he filed explanation that he was handling four Sections headed by Sri Kapil Deo, Sri Kunwar, Sri Choudhary and Sri Shivnarayn, so it was very difficult for him to keep tip of finger on the movement of the files and he had never intended to keep the file in his Almirah as he remained engrossed dealing with the several files which were placed before him and on that account some delay has taken place. It appears that the petitioner has been visited with the punishment as aforesaid.

5. Learned counsel for the petitioner submits that



once the authority has initiated a major penalty proceeding, then in half way it should not be dropped, but it should reach to the finality and for that he has placed reliance on the decision of this Court in the case of **Navin Kumar Singh vs. The State of Bihar and Ors.** reported in **2018(1) PLJR 134**. In that case, the Court has found that there was some minor aberration and arrived to a finding that it did not constitute a misconduct. However, in the present case allegation has been made that the petitioner has kept the file for three months and has not placed the same before the reviewing authority. So the fact of the aforesaid case is quite different to the facts of this case, does not apply in the present case. But, one thing is clear, when the petitioner has filed explanation giving details of the movement of the files, in such circumstances, the disciplinary authority before passing the order should have examined properly and meticulously, the explanation submitted by the petitioner, however, no such exercise was done, but a cryptic order has been passed.

6. In such view of the matter, the order of punishment containing memo no.1847 dated 16.02.2017 is set aside. The matter is remanded back to the disciplinary authority to consider the explanation filed by the petitioner and take decision in



accordance with law.

7. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
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