

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18210 of 2010

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Vivekanand Yadav @ Vivekanand Prasad S/O Late Sukhdeo Singh R/O Vill Bara Hashanpur, P.S. Khushrupur, Distt-Patna

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home Government of Bihar, Patna
2. The Director General of Police, Government of Bihar, Patna
3. The Inspector General of Police, Saran Division, Chhapra
4. The Deputy Inspector General of Police Saran Division, Chhapra
5. The Superintendent of Police, Munger
6. The Superintendent of Police, Gopalganj

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. PRAMOD MISHRA, Adv.

For the Respondent/s : Mr. (AAG3)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 10-07-2018

The petitioner by way of the present writ petition has prayed for quashing of the order dated 17.01.2009 passed by the Superintendent of Police, Gopalganj, whereby and where under the pay and allowances for a period of 549 days during which the petitioner had remained absconding, has been forfeited and further punishment of entry of black mark in his service book has been passed as well as it has been directed that during the suspension period, the petitioner would not be entitled to any additional pay/allowances apart from what has already been paid.

2. The aforesaid order dated 17.01.2009, inflicting



punishment on the petitioner alongwith the appellate order dated 28.05.2010 passed by the respondent Deputy Inspector General of Police, Saran Division, Chhapra has been challenged in the present writ petition.

3. The learned counsel for the petitioner though has not pressed for quashing of the entire order of punishment dated 17.01.2009 by which the petitioner has been inflicted punishment of entry of black mark in the service book but has only submitted that the punishment to the effect that the petitioner would not be entitled to any thing apart from what has already been paid to him for the suspension period is not sustainable inasmuch as under Rule 824 of the Bihar Police Manual, no such punishment is provided. The learned counsel for the petitioner has relied on the judgment dated 30.08.2016 passed in C.W.J.C. No.742 of 2011 for the purposes of fortifying the aforesaid stand taken on behalf of the petitioner.

4. I have heard the learned counsel for the parties and I find that no such punishment i.e. non payment of pay thing else apart from the subsistence allowance already paid to the petitioner, is provided for as a penalty, which can be imposed, under the Bihar Police Manual (Rule 824), the manual which provides for the disciplinary rules pertaining to the police force.

5. In such view of the matter, the order passed by the



disciplinary authority dated 17.01.2009, as upheld by the appellate authority vide order dated 28.05.2010 is quashed to the extent the same restricts grant of pay and allowances, for the period of suspension, upto the petitioner to the extent of subsistence allowance already drawn by him.

6. Accordingly, the order of punishment is modified with a direction that the petitioner shall be liable to be paid the balance amount, for the period he had remained under suspension, apart from the subsistence allowance already paid to him. The said balance amount be paid to the petitioner within a period of six months from today.

7. The writ petition is allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

BTiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	13-07-2018
Transmission Date	

