

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.24553 of 2013

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Dhananjay Thakur Son Of Late Mouli Thakur Resident Of Village - Shirnia,
Police Station - Gogri Jamalpur, District - Khagaria

.... Petitioner/s

Versus

1. The State Of Bihar through Its Chief Secretary, Old Secretariat, Patna
2. The Principal Secretary, General Administration Department, Government Of Bihar, Old Secretariat, Patna
3. The Joint Secretary, General Administration Department, Government Of Bihar, Old Secretariat, Patna
4. The Under Secretary, General Administration Department, Government Of Bihar, Old Secretariat, Patna
5. The Divisional Commissioner, Bhagalpur Division, Bhagalpur
6. The Collector Cum District Magistrate, Bhagalpur
7. The In - Charge Deputy Collector, Bhagalpur Collectorate, Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Narendra Kumar, Advocate
For the State : Mrs. Binita Singh, SC 28
Mr. Apurv Harsh, AC to SC 28

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 28-06-2018

Heard learned counsel for the petitioner and the respondent
State.

2. The petitioner is aggrieved by the order of punishment dated 08.04.2013 bearing memo no. 5643 issued under the signature of the Officer on Special Duty-cum-Joint Secretary to the Government of Bihar in the General Administration Department inflicting the punishment of withholding of one increment with non-cumulative effect under Rule 14 (iv) of the Bihar Government Servants (Classification, Control & Appeal) Rules 2005 (hereinafter referred to as 'the Bihar CCA Rules, 2005).



3. Counsel for the petitioner has submitted that he was issued a charge memo dated 03.10.2010. On submission of the enquiry report under communication dated 12.05.2012 by the Secretary to the Commissioner, Bhagalpur Division to the Department, the petitioner was communicated the order of punishment. Neither a second show cause notice was issued to the petitioner, nor the disciplinary authority while issuing the order of punishment dated 08.04.2013, has considered and recorded his findings in respect of the articles of charges communicated to the petitioner under the charge memo dated 26.08.2011 bearing memo no. 9653.

4. Counsel for the petitioner has submitted that the order of punishment dated 08.04.2013 is therefore, in violation of the Principles of Natural Justice in as much as no second show cause notice has been given to the petitioner purporting to differ with the findings of the Enquiry Officer which were favourable to the petitioner, submitted under the communication dated 12.05.2012.

5. It is also his submission that in a case like the instant one where after submission of the enquiry report the disciplinary authority proposes to impose one of the minor penalty specified in Clause (i)-(v) of Rule 14 of the Bihar CCA Rules, 2005 then Rule 18 (5) of the Bihar CCA Rules provides, that notwithstanding anything contained in Rule 19 of the said Rules, the order could be passed imposing such a penalty only having regard to the findings of the disciplinary authority on all or any of the articles of charges.

6. In the instant case neither a second show cause notice has been issued to the petitioner nor the impugned order purporting to inflict a minor penalty upon the petitioner shows any consideration or findings on any of the charges as communicated to the petitioner



under charge memo dated 08.04.2013.

7. For the reasons indicated hereinabove, the order of punishment dated 08.04.2013 is unsustainable in law being violative of the Principles of Natural Justice as also in contravention of Rules 18 (5) of the Bihar CCA Rules, 2005. The Same is therefore, quashed.

8. The writ petition is allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

