

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1383 of 2015

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Suman Sekhar Rajhans son of Mahadeo Rajhans resident of village Dharam Rai,
P.S. Tarapur district Mungher.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Director General of Police Old Secretariat, Patna
3. Inspector General Muzaffarpur.
4. Deputy Inspector General Chapra.
5. Superintendent of Police, Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate
Mr. Siya Ram Sahi, Advocate

For the Respondent/s : Mr. Manisha Singh, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 01-05-2018

Heard learned counsel for the petitioner and the
respondent State

2. In view of the very limited submissions made on
behalf of the petitioner the writ petition is being disposed off with
limited direction.

3. The case of the petitioner is that pursuant to an enquiry
conducted by the Superintendent of Police (Head Quarter)-cum-
Enquiry Officer, Siwan he was found acquitted of the charge levelled
against him in the departmental proceedings arising out of charge
memo dated 11.03.2002. The disciplinary authority by his order
dated 28.08.2012 differing with the findings of the Enquiry Officer
has proceeded to punish the petitioner and terminate the services of
the petitioner holding the charges to be proved.



4. It is the specific case of the petitioner that without giving any second show cause notice or communicating the points of disagreement to the petitioner with the conclusion of the Enquiry Officer favourable to the petitioner, the impugned order has been passed inflicting the grave punishment of dismissal from service. He submits that the same is contrary to the established procedure and contrary to the Principles of Natural Justice in as much as when the disciplinary authority proposes to differ with the findings of the Enquiry Officer, it is obligatory that the points of disagreement with the findings of the Enquiry Officer, be communicated to the delinquent and an opportunity be granted in compliance of the Principles of Natural Justice to enable the delinquent to persuade the disciplinary authority to accept the findings of the Enquiry Officer favourable to the petitioner. The same has not been done in the instant case.

5. The specific stand of the petitioner in this respect in paragraph 5 and 6 of the writ petition. The same is not denied by the respondents though a parawise counter affidavit has been filed. The stand of the State Government in the relevant paragraph dealing with the said assertion of the petitioner is that the “Superintendent of Police considered all the materials.....”.

6. There is no denial that the impugned order awarding the punishment has been issued without giving a second show cause



notice or communicating the points of disagreement. In the said circumstances, this Court would remand the matter to the disciplinary authority from the stage of the enquiry report. It would be open to the disciplinary authority to communicate the points of disagreement by way of second show cause notice so as to ensure procedural fairness and compliance with the principles of natural justice and after considering the second show cause pass appropriate orders in accordance with law expeditiously.

7. The writ petition is allowed to the extent indicated herein above. The punishment order dated 28.08.2012 in so far as it is violative of the principles of natural justice is for the reasons indicated hereinabove is quashed. As a result of quashing of the order of the disciplinary authority, the appellate order dated 28.09.2012 issued by the Deputy Inspector General of Police, Saran Range is also quashed as it is based on the said order passed by the disciplinary authority which is not in accordance with law.

8. The question of entitlement of the petitioner would abide by the final decision taken by the disciplinary authority.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

