

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8735 of 2013

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Ravindra Nath Rai Son Of Late Lal Mohar Rai Resident Of Muhalla - Civil
Line (Near Durga Talkies), Police Station - Buxar Town, District - Buxar,
Retired Teacher Of K.P. High School, Dumari (Buxar)

... .. Petitioner/s

Versus

- a. The State Of Bihar Through The Principal Secretary, Human Resources
Department, Govt. Of Bihar, Patna
- b. The Principal Secretary, Human Resources Department, Govt. Of Bihar, Patna
- c. The Director, Secondary Education, Bihar, Patna
- d. The Regional Deputy Director Of Education, Patna Division, Patna
- e. The District Education Officer, District - Buxar
- f. The Headmaster, K.P. High School, Dumari, P.S. Simari, District - Buxar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Naresh Sharma, Advocate.
	:	Dr. Harendra Kumar Singh, Advocate
For the Respondent/s	:	Mr. S.A. Alam

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

4 29-10-2018 Heard learned counsel for the petitioner and counsel
appearing on behalf of the State.

Petitioner is aggrieved by order contained in
Annexure-1 whereby the petitioner was inflicted to stoppage of
two annual increments with cumulative effect.

Learned counsel appearing on behalf of the petitioner
would submit that the petitioner was punished in the
departmental proceeding. The order of stoppage of two annual
increments with cumulative effect is a major punishment and as
such in terms of Bihar Government Servant (Classification and



Control) appeal rule 2005, the respondents were not justified in stoppage two annual increments without following the norms of departmental proceeding formulated for major punishment. In this case only formality was completed by the respondent Inquiry Officer in holding the petitioner guilty.

Learned Counsel appearing on behalf of the petitioner has drawn attention to this court to the inquiry report contained in Annexure-4. The inquiry report is not a fact finding it is only opinion of Inquiry officer. Learned counsel for the petitioner submits that in the matter of departmental inquiry involving major punishment reasonable opportunity of hearing is required to be provided. The opportunity of hearing should be real and not only empty formality. Reasonable opportunity includes the opportunity to cross-examine the witnesses examined in the inquiry, from the material available it does not appear that the Inquiry Officer has followed the principles for conducting the departmental inquiry, for inflicting major punishment. The law in this regard is well settled by the Constitution Bench of the Apex Court in the case of H.C. Goel reported in AIR 1964, S.C. 364 wherein it has been categorically held that case like criminal trial was to be followed in departmental proceeding. Unfortunately in the instant case Inquiry Officer has not



followed the principles of natural justice Inquiry officer's report does not show that any opportunity of cross-examination was provided to the petitioner. No opportunity with regard to the allegation levelled and the material taken into consideration for holding the petitioner guilty was provided to the petitioner. In addition thereto the learned counsel appearing on behalf of the petitioner has drawn attention to the Court to the order passed by the Disciplinary Authority as well as Appellate authority to indicate that they have not applied their judicial mind in the matter of taking decision of inflicting major punishment. Considering the totality of the fact situation the Court is of the view that order of inflicting major punishment was passed without strict adhere to the norms prescribed under the Bihar Government Servant (Classification and Control Rule 2005).

The counter affidavit does not improve the case of respondents. The order contained in Annexures-1 and 2 are most cryptic and as such the order contained in Annexures- 1 and 2 are hereby quashed. Respondents are accordingly directed to restore the benefit of quashing of Annexures 1 and 2 to the petitioner within a maximum period of four months from the date of receipt/ production of a copy of this order.

With the aforesaid the writ petition stands allowed



and disposed of.

(Anil Kumar Upadhyay, J)

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