

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2941 of 2004

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Rangnath Singh son of Ramyas Singh, resident of village and P.O.- Akauna, P.S. Udvan Nagar, Dist.- Bhojpur (Arrah).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Director General of Police, Bihar.
3. Inspector General of Police, Bhagalpur Range, Bhagalpur.
4. Dy. Inspector General of Police, Eastern Region, Bhagalpur.
5. Superintendent of Police, Bhagalpur.
6. Dy. Superintendent of Police (Laws order), Bhagalpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh, Adv.
Ms. Smriti Singh, Adv.

For the Respondent/s : Ms. Abhanjali, AC to GA-12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 14-08-2018

The present writ petition has been filed for quashing the order of dismissal dated 31.12.2002, the appellate order dated 15.4.2003 and the order passed by the Inspector General of Police dated 22.8.2003, whereby and whereunder the appeal and the memorial of the petitioner has been dismissed. The petitioner has further challenged the enquiry report dated 25.7.2002.

2. The brief facts of the case are that a disciplinary proceeding was initiated against the petitioner vide memo dated 4.1.2002 and charge sheet was served on the petitioner on the allegation that he had caught one Vikesh Kumar by his collar and snatched a sum of Rs.224/- from him after assaulting him and abusing



him. The enquiry Officer had conducted the departmental proceeding and after considering the evidence led by the prosecution had found the charges to have been proved and had submitted an enquiry report dated 25.7.2002. Thereafter, a second show cause notice was served on the petitioner and the order of punishment dated 31.12.2002, dismissing the petitioner from service was passed. The petitioner had filed an appeal which has been dismissed by an order dated 15.4.2003. The petitioner had then filed a representation/ memorial before the Inspector General of Police, however, the same has also been dismissed by an order dated 22.8.2003.

3. The learned counsel for the petitioner has argued that the petitioner was not granted opportunity to cross-examine the witnesses produced by the prosecution, leading to grave prejudice being caused to the petitioner herein. It has been further submitted that non-supply of the documents vitiates the entire proceeding. Lastly, it is submitted that in any view of the matter, the allegation levelled against the petitioner being a first offence in the service tenure of the petitioner, a lenient view should have been taken by the disciplinary authority, instead of dismissing the petitioner from service.

4. Per contra, the learned counsel for the respondents has submitted that ample opportunity was provided to the petitioner and



he was repeatedly asked to appear before the disciplinary authority on various occasions, but the petitioner failed to avail the said opportunity. It has been further submitted that there is no irregularity in conduct of the disciplinary proceedings by the disciplinary authority and the enquiry Officer has found the charges levelled against the petitioner to have been conclusively proved during the course of the departmental enquiry, based on the evidence adduced by the prosecution as well as based upon other documents.

5. I have heard the learned counsel for the petitioner and gone through the record from which I find that there is no irregularity or illegality in conduct of the departmental proceeding and since the charges have been proved, the respondents were right in inflicting punishment upon the petitioner, nonetheless, the punishment of dismissal inflicted upon the petitioner, in the opinion of this Court, seems to be not only disproportionate but also excessive by any stretch of imagination considering the nature of charges levelled as also in view of the said offence being a solitary instance of dereliction in duty. Hence, this Court is of the opinion that the disciplinary authority may re-examine the order of punishment dated 31.12.2002 for the purposes of infliction of appropriate and commensurate punishment.

6. For the reasons mentioned herein above, the orders



dated 31.12.2002, 15.4.2003 and 22.8.2003 are quashed and the matter is remanded back to the disciplinary authority to take appropriate decision with regard to the punishment to be inflicted upon the petitioner herein, in view of the fact that this Court finds that the punishment is disproportionate to the charges levelled against the petitioner as also the facts that the connected incident is alleged to be a case of first incident of its kind during the entire tenure of the petitioner.

7. It is made clear that the order of punishment dated 31.12.2002 shall be subject to the final order being passed by the disciplinary authority with regard to the quantum of punishment.

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

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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