

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11928 of 2014

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Ashok Kumar Ojha, Son of Late Kapildeo Ojha, resident of Village- Achalgarh,
Police Station- Rewarti in the District of Balia (U.P.) **.... Petitioner**

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Government of Bihar, Patna
 2. The Principal Secretary, Department of Home, Government of Bihar, Patna
 3. The Inspector General (Jail), Department of Home, Government of Bihar, Patna
 4. The Superintendent, Special Central Jail, Bhagalpur
 5. The Superintendent, District Jail, Lakhisarai **.... Respondents**
- =====

Appearance :

For the Petitioner : Mr. Siyaram Sahi, Advocate and
Mr. Sunil Kumar, Advocate

For the Respondents : Mr. Rajkishore Ray, GP 18

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-07-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner has challenged order dated 15.1.2013,
passed by the Disciplinary authority respondent no.3, IG, Prison,
Bihar (Annexure 1) by which he has been dismissed from the
service. He has also challenged the appellate order dated 10.11.2014
(Annexure 9 to the I.A.No.4374 of 2018), passed by the Principal
Secretary, Home Department, Government of Bihar, Patna
(respondent no.2).

The petitioner has been punished in relation to a charge to
the extent that a pregnant inmate absconded from the Labour room
of Sadar Hospital, Lakhisarai. It is said that the petitioner and one



female warder Laxmi Devi were deputed to accompany the lady inmate and at the relevant time the petitioner had absented himself from the hospital.

Learned counsel for the petitioner submits that at the relevant time the petitioner was posted as Warder in District Jail, Lakhisarai and he along with a female warder Laxmi Devi was to accompany a pregnant inmate for treatment in Sadar Hospital, Lakhisarai who escaped from the Labor room. Learned counsel submits that the petitioner being a male member of the Force would not be allowed by the hospital authorities to enter into the Labour room from where it is alleged she has abscond. He submits that the responsibility of ensuring custody of pregnant inmate could not primarily be fixed on the petitioner under the circumstances considering the fact that he was a male and this aspect of the matter has not been considered by the authorities. Had this issue been considered by the authorities, the severe punishment of dismissal from service could not have been passed. He submits that the punishment is grossly disproportionate to the charges made out against the petitioner which aspect of the matter has not been considered by the appellate authority in his order dated 10.11.2014.

In view of the fact that the pregnant inmate escaped from the Labor room, the issue of quantum of punishment warrants



consideration on merits. The petitioner is granted liberty to make his representation before the Appellate authority, i.e., the Principal Secretary, respondent no.2 within a period of four weeks. Respondent no.2 would be obliged to take a decision on the petitioner's claim within a period of eight weeks from the date of his representation to be filed along with a copy of this order.

The writ petition stands disposed of with the aforesaid observations and directions.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.7.2018
Transmission Date	NA

