

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13115 of 2017

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Krishna Kumar Singh Son of Late Baleshwar Prasad Singh Resident of
Mohalla - Maurya Vihar Khagaul Road No. 3, Police Station -
Phulwarisharif, District - Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Director-in-Chief, Directorate Health Services, Bihar, Patna.
4. The Deputy Director, Directorate Health Services, Bihar, Patna.
5. The Regional Deputy Director, Directorate Health Services, Bihar,
Patna.
6. The Civil Surgeon, Bhojpur at Ara.
7. The Additional Chief Medical Officer, Bhojpur at Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satya Prakash

For the Respondent/s : Mr. Mujtabul Haque, GP-12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 10-05-2018 The petitioner, by way of the present writ petition,

has prayed for quashing of the order of punishment dated

21.08.2015 as also the appellate order dated 18.07.2017.

The brief facts of the case are that the respondents
had initiated a departmental proceeding by order dated
08.06.2015, as against the petitioner herein and one another person
namely Ravi Jee on the allegation of absence of one day from
service. The enquiry officer had conducted the enquiry and
submitted his enquiry report on 29.06.2015 whereby and
whereunder the charges levelled against the petitioner were found



to have not been proved. Thereafter, it appears that no second show cause notice was issued to the petitioner but the order of punishment dated 21.8.2015 was passed, differing from the opinion of the enquiry officer.

It is trite law that once the disciplinary authority, seeks to differ with the opinion of the enquiry officer, requisite grounds and reasons are required to be put forward to the delinquent for the said difference in opinion and seek a reply/ rebuttal and only thereafter the order of punishment or acquittal, as the case may be, can be passed but in the present case apparently the said settled procedure of law has been by-passed, hence the order dated 21.08.2015 passed by the respondents cannot be sustained and is accordingly quashed.

Since, the order dated 21.8.2015 whereby and whereunder the petitioner has been inflicted with the punishment has been set aside, the appellate order is found to fall and is accordingly quashed and set aside.

The writ petition is allowed.

(Mohit Kumar Shah, J)

BTiwary/-Md Rashid

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