

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6361 of 2016

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Pramod Kumar Yadav, Son of Kusheshwar Prasad, resident of Village + P.O-
Bhalar, P.S.- Dharhara, District- Munger.

... .. Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. Director General of Police, Bihar, Old Secretariat, Patna.
3. D.I.G. of Police, Military Police, Central Zone, Patna.
4. Commandant, B.M.P.-2 Dehri, Rohtas at Sasaram.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narain, Senior Advocate Mr. Ram Hriday Prasad, Advocate Mr. Sunil Kumar Singh, Advocate
For the State	:	Mr. Dhurjati Kr.Prasad, GP-14.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 13-08-2019

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

In this case, the petitioner is challenging the order dated 31.01.2008, whereby and whereunder the petitioner has been dismissed from the service on the ground that he deserted and remained absent from the duty for 38 days.

It appears from the record that the petitioner has taken specific plea for treatment in the hospital, he was granted Kaman No.503824 dated 12.05.2007, but when S.I. Pritam Ekka visited the hospital on 18.05.2007 it was found that his name was not there in the hospital register and even after the reminders he



remained absent for 38 days. Whereafter, of his own reported to duty on 19.06.2007 and vide Command No. 2108452 issued from B Company Headquarter to Immam Bhawan, Patna, he was deputed with Sub-Divisional Officer, Paliganj, but he did not report to the duty and became absconder, which came to the notice when S.I. Brahmdeo Paswan visited at Paliganj on 23.06.2007. Thereafter, the petitioner was put under suspension on 05.07.2007 with the payment of subsistence allowance. After framing of charge, the notice was sent to his home address vide memo no.2482 dated 26.07.2007, whereby he was directed to submit the show-cause within 15 days. Accordingly, the petitioner submitted his reply to the show-cause, which was not found satisfactory. An inquiry was conducted, during inquiry altogether 5 witnesses were produced by the prosecution side and the petitioner was given chance to cross-examine them, but he has cross-examined only one witness though he appeared all through as he has put his signature on the order-sheet, which is apparent from the inquiry proceeding. Ultimately, the petitioner has been visited with the order of punishment.

In the writ petition, the petitioner has conveniently stated that the inquiry was conducted ex parte, he was not given notice, raised the issue of violation of natural justice. So,



completely the petitioner has suppressed the material facts of departmental inquiry, in which he very much participated, in order to take a favourable order from this Court. It is completely a suppression of fact which makes the petitioner dis-entitled for any relief. In a writ proceeding, the parties have expected to come with clean hand and have to state correct fact either favour or against, but it is not supposed to make any false statement or suppress the material fact in order to take a favourable order. It is completely a false affidavit sworn by the present petitioner.

It is a very serious matter, this Court could have passed an order for initiation of criminal case against the petitioner, but taking a lenient view in the matter, this Court is not passing any such order.

In such view of the matter, the writ petition is dismissed on the ground of suppression of material facts of holding department inquiry, in which the petitioner very much participated.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
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