

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7892 of 2019

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Pawan Kumar Jha son of late Ram Chandar Jha, resident of Village, P.O. and
P.S. - Kanhauli, District - Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna
3. The DIG of Police, Military Police, Central Zone, Patna.
4. Commandant, B.M.P. -4 Dumraon, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ram Hriday Prasad Ms. Maruti Kumari
For the Respondent/s	:	Ms.Ruchikar Jha, AC to SC8

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-09-2019

Heard counsel for the petitioner and counsel for the
respondents-State.

Petitioner being Havaladar in Bihar Military Police was
proceeded against on account of certain alleged misconduct and
dereliction of duty. One of the allegations was that the petitioner
was intoxicated while on duty.

Enquiry Officer has relied upon documents/ medical
prescriptions but did not make available any copy of pathological
report to the petitioner.

Having abstained from the enquiry, petitioner filed his
show cause in response to the said punishment and also filed
appeal against the order of dismissal dated 07.01.2017 issued by



the Commandant, BMP 4, Dumaraon, Buxar. Petitioner's appeal was dismissed by DIG, Military Police, Central Zone, Patna on 18.04.2018. Petitioner has thereafter filed instant writ proceedings and simultaneously he has availed remedy of memorial before the Director General of Police, Bihar (respondent no.2)

It is pointed out by counsel for the petitioner that he has taken specific plea before the Director General of Police, Bihar regarding non-supply of copy of enquiry report while final decision being taken by the Disciplinary authority. Director General of Police, Bihar has disposed of memorial of the petitioner vide order dated 29.05.2019.

Order however, does not show consideration of the said grievance of the petitioner regarding order of dismissal being passed without making available copy of the enquiry report.

In view of non-consideration, counsel for the petitioner submits that great prejudice has been occasioned as it was incumbent upon disciplinary authority to give copy of the enquiry report prior to passing the order of punishment so as to allow the petitioner to highlight the infirmity committed by the Enquiry Officer at earlier stage. Whether infirmity has been committed is an issue which was required to be examined by the Director General of Police, Bihar while passing orders on petitioner's



memorial. The same, however has not been done as it is apparent from bear reading of the order of the Director General of Police, Bihar dated 29.05.2019 (Annexure 9). The order of the Director General of Police, Bihar dated 29.05.2019 is therefore, quashed.

Matter is remitted to respondent no.2 to reconsider the matter in light of submissions made by the petitioner in his memorial dated 07.09.2018 and pass orders afresh showing due consideration on the point raised therein.

Detailed and elaborate submissions made in the memorial filed on 07.09.2018 has been rejected without assigning any reason. The order suffers from the vice of non- application of mind and also total non-consideration of pleas set forth by the petitioner in his memorial. Such order cannot be permitted to continue. In this connection, this court would refer decision of the Apex Court in the case of Kranti Associates Private Limited and another vs. Masood Ahmed Khan and others reported in (2010) 9 Supreme Court Case page 496. Importance of assigning reason has been reiterated time and again by Courts.

For the reasons recorded hereinabove, this Court would therefore, quash the order dated 29.05.2019 passed by the Director General of Police, Bihar, Patna.



Let appropriate order be passed by the Director General of Police, Bihar, Patna in accordance with law by assigning reason and dealing with specific issue raised by the petitioner within three months from the date of receipt/production of a copy of this order.

Writ petition stands allowed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.9.2019
Transmission Date	NA

