

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1397 of 2016

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Ram Suresh Prasad Son of Late Haridwar Prasad, Resident of Village -
Sirisia, P.S. Kuchaykot, District - Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar
2. The Commissioner, Saran Division, Chapra.
3. The Collector, Gopalganj, Bihar, Patna.
4. The Deputy Collector, Land Reforms, Gopalganj.
5. The Sub -Divisional Officer, Gopalganj.
6. The Circle Officer, Gopalganj.
7. The Circle Inspector, Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. D.K.Sinha, Sr. Advocate Mr. Abhinay Raj
For the Respondent/s	:	Mr. Alexander Ashok – AC to GA 4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 09-01-2019 Heard learned Counsel for the petitioner and the
learned Counsel for the respondent State.

Learned Senior Counsel appearing on behalf of the
petitioner submits that the order dated 8.7.2014, purporting to
impose the punishment of withholding of two increments with
cumulative effect and depriving the petitioner of any dues other
than subsistence allowance for the period of suspension along
with penal transfer of the petitioner, is bad in law.

It is submitted that prior to inflicting of the major
penalty, respondent authorities were under legal obligation
under the provisions of Bihar CCA Rules, 2005 to subject the



petitioner to a duly constituted proceeding in accordance with Rule 17 and only after giving a charge memo and affording opportunity in accordance with the said Rules, major penalty could have been inflicted upon the petitioner.

The respondents have filed a counter affidavit. Other than reference to an order dated 11.12.2012, placing the petitioner under suspension, there is no averment that the charge memo had been ever issued to the petitioner regarding any allegation pursuant to which the order of punishment dated 8.7.2014 has been passed against the petitioner. Para 11 of the counter affidavit in fact admits that from perusal of the show cause the punishment have been inflicted upon the petitioner.

In view of such admitted position emerging from the pleadings on record, this Court would quash the order dated 8.7.2014 bearing No. 648 issued by the District Magistrate, Gopalganj inflicting the major punishment upon the petitioner as the same is in violation of the procedure prescribed for inflicting major penalty in Rule 17 of the Bihar CCA Rules (2005). The petitioner, as a result of quashing of the order dated 8.7.2014, would be entitled to his all consequential benefits.

The respondent authorities, however, would be at liberty to proceed against the petitioner in accordance with law,



if so required, only after complying the procedure prescribed under the Bihar CCA Rules.

In view of quashing of the order of punishment dated 8.7.2014, the appellate order dated 27.8.2015 is also unsustainable as the same merely reaffirms the illegal order dated 8.7.2014. The order of the Commissioner, Saran Division, Chapra in Service Appeal No. 222 of 2014 also stands quashed.

The writ petition is allowed.

(Madhuresh Prasad, J.)

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