

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15113 of 2010

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Arunjay Kumar Singh S/o Late Ganesh Singh, resident of village-Labadna,
P.S.- Obra, Distt.- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the District Magistrate, Rohtas at Sasaram
2. The Deputy Collector, Establishment, Dehri, Distt.- Rohtas at Sasaram
3. The Deputy Collector, Land Reforms, Dehri, Distt.- Rohtas at Sasaram
4. The Sub Divisional Officer, Dehri, Distt.- Rohtas at Sasaram
5. The Circle Officer, Dehri, Distt.- Rohtas at Sasaram

... .. Respondent/s

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Appearance :

For the Petitioner/s	M/s Sarvendra Kumar Verma and Jai Vardhan Narayan, Advts.
For the Respondent/s	: Mr. Pawan Kumar, AC to GA-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 30-01-2019

A report showing deposit of Rs.5,000/- to the Patna
High Court Legal Services Committee has been placed for perusal.
It be kept on record.

The counter affidavit filed by the State is accepted and
it is kept on record for consideration.

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

In this case, the petitioner is challenging the order of
penalty vide memo. No. 471 dated 23.03.2006 by which the
petitioner has been inflicted the punishment of stoppage of two
increments and will not be entitled to salary for the period of
suspension except subsistence allowance.



The petitioner was departmentally proceeded, by issuance of Letter-Ka, vide Memo no. 451 dated 16.05.2005 (Annexure-1), mentioning the allegations against the present petitioner, show cause was filed by petitioner, on receipt of comment from Presenting Officer, enquiry report was submitted by the Enquiry Officer, ultimately vide order dated 23/03/2006 (Annexure-5) the punishment has been inflicted.

The learned counsel for the petitioner has submitted that the procedure, which has been prescribed for holding a departmental proceeding having been not followed, as he was not given the list of witnesses. Further the petitioner was asked to file show cause which the petitioner filed, whereafter the Enquiry Officer has sought a comment from Presenting Officer on the explanation submitted by the petitioner. On receipt of the comment of the Presenting Officer, the Enquiry Officer recorded his finding whereafter the order of punishment has been inflicted upon the petitioner. On the face of it appears that neither any witnesses has been examined to substantiate the allegation nor the petitioner was even given any opportunity to bring his own witnesses in defence of his case, merely the exchange of explanation and the comment abruptly recording in the enquiry report cannot be said to be a proper procedure for holding enquiry, inasmuch as it is also an



admitted fact in paragraph 16 of the counter affidavit which shows that the petitioner was not served even the enquiry report to give his comment on the report, but without giving any opportunity has inflicted the punishment so it is apparent that neither the Enquiry Officer nor the Disciplinary Authority followed the proper procedure in holding the departmental enquiry.

Accordingly, the order of punishment is set aside and the matter is remanded back to the authority concerned, if so like, they may initiate a fresh proceeding and take decision in accordance with law.

With the above direction, this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

mkchy/-

AFR/NAFR	NAFR
CAV DATE	N/A
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