

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 12982 of 2014

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Damodar Prasad Singh, Son of Late Sita Singh, resident of Village- Sarba,
P.S.- Barbigaha, District- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Inspector General of Police, Bhagalpur Range, Bhagalpur
3. The Deputy Inspector General of Police, Munger Region, Munger
4. The Deputy Inspector General of Police-cum-Principal, Police Training Centre, Hazaribagh (Jharkhand)
5. The Superintendent of Police, Police Training School, Nath Nagar, Bhagalpur
6. The Superintendent of Police, Lakhisarai
7. The Police Inspector, P.T.C., Hazaribagh (Jharkhand)
8. Director General of Police, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Kunwar Ajit Singh, Advocate
For State of Bihar	:	Mr Ashok Kumar Dubey, AC to AAG XI
For State of Jharkhand	:	Mr D Mukherjee, Sr Advocate with Mr A K Chongdar, Advocate

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 11-01-2019

Learned counsel for the petitioner is permitted to implead Director General of Police (for brevity, *DGP*) as respondent No 8 in the instant proceedings.

2 Heard learned counsel for the petitioner and the respondent-State.

3 It is submitted that the petitioner, who was a Constable in the Bihar Police, has been inflicted with the punishment to the reduction of the lower stage that is the basic scale of pay for Constable. It is further submitted that the



punishment is on the basis of a procedure in violation of the principles of natural justice inasmuch as the petitioner was not provided the documents and due opportunity to defend his case. The order of punishment, therefore, has been challenged in the instant proceedings along with the order passed by the Appellate Authority, i e, the Deputy Inspector General of Police, Munger affirming the order of punishment dated 25.05.2011 issued by the Superintendent of Police, Luckeesarai.

4 Today, in reply to the counter affidavit, the petitioner has placed on record a Memorandum dated 20.12.2011 issued by the DGP to all the Superintendents of Police wherein referring to the provisions contained in Rule 824 of the Bihar Police Manual, he has deprecated the practice of inflicting the punishment of reduction in the lowest scale of pay as the same is not one of the punishments prescribed in Rule 824 of the Bihar Police Manual. The Memo of the DGP is dated 20.12.2011 and the order of punishment is 25.05.2011, i e, prior to the said Memo having been communicated to the Superintendents of Police.

5 This Court, therefore, is of the opinion that if until issuance of the Memo dated 20.12.2011, the punishment of reduction to the lowest scale of basic pay was deprecated by the DGP then matter requires reconsideration. Submission of the



petitioner's counsel is that in light of the said Memo, the punishment order dated 25.05.2011 is also bad inasmuch as the effect of the same is that the petitioner has been placed at the basic scale of pay meant for Constables.

6 The said Memo dated 20.12.2011 has not been placed by the petitioner before the Enquiry Officer in his show cause.

7 However, since the said Memo dated 20.12.2011 reiterates the legal provision arising out of Rule 824 of the Bihar Police Manual that a punishment of reduction to the basic pay was impermissible under the Rules, the petitioner would be at liberty to submit his Memorial/representation before the DGP highlighting this fact that the punishment order dated 25.05.2011 has the effect of placing the petitioner in the basic pay and that the same is in violation of Rule 824 of the Bihar Police Manual as reiterated under Memo dated 20.12.2011.

8 In the event, such a representation/Memorial is filed within four weeks, the DGP (respondent No 8) would be obliged to consider the same and pass a reasoned and speaking order in accordance with law within three months thereafter.

9 In the event, the order of punishment is found unsustainable, the petitioner would be entitled to all consequential



benefits which should also be paid within a period of eight weeks thereafter.

10 Writ petition is disposed of with the aforesaid directions.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.01.2019
Transmission Date	NA

