

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22443 of 2019

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Manoranjan Kumar Pandey, Son of Late Bal Krishna Pandey, R/o Village and Post-Malaypur, P.S. Malaypur, District Jamui at present House No. 222, Abhiyanta Nagar, Bailey Road, Post Danapur Cant, P.S. Rupaspur, District-Patna, Pin-801503.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Government of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Deputy Secretary (Vigilance), Road Construction Department, Bihar, Patna.
4. The Deputy Secretary (Flying Squad), Road Construction Department, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shambhu Nath, Advocate
For the Respondent/s : Mr. Pushpanjali Sharma, A.C. to SC-20

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 09-01-2020 Heard learned counsel for the parties.

2. A notification as contained in Memo No. 3147(s) dated 11.03.2019 whereby punishment of withholding of one increment of pay without cumulative effect has been imposed, is being challenged in the present writ application. The impugned notification has been brought on record by way of Annexure-12 to the writ application.

3. From the impugned order itself it appears that the punishment has been imposed after seeking an explanation from



the petitioner through letter dated 06.11.2017 in the light of the report submitted by the Flying Squad in respect of construction of road (Kudra Prasathua Road). The letter dated 06.01.2017 has been brought on record by way of Annxure-10 to the writ application.

4. Learned counsel appearing on behalf of the petitioner has submitted that it is mandatory for the disciplinary authority to comply with the requirement under Rule 19 (1) (a) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005, before imposing a minor penalty. He has submitted, referring to the said letter dated 06.11.2017 that it does not amount to informing the petitioner of the proposal to take action against him. The petitioner was simply asked to submit his explanation on the report of the Flying Squad.

5. A counter affidavit has been filed on behalf of the Respondent State of Bihar wherein it has been stated that after duly examining the petitioner's explanation submitted pursuant to the said letter dated 06.11.2017, the decision to impose minor punishment has been taken.

6. Learned counsel appearing on behalf of the State has submitted that the petitioner cannot take the plea of violation of principle of natural justice since he was given an



opportunity to explain his conduct through letter dated 06.11.2017.

7. Rule 19(1)(a) requires that Government Servant must be informed in writing of the proposal to take action against him by way of imposition of any of the penalties specified in Clause (ii) (v) of Rule 14 of the Rules. The letter dated 06.11.2017 is the only communication which appears to have been made to the petitioner before imposition of punishment in question.

8. I have carefully perused the letter dated 06.11.2017 which does not at all disclose proposal/intention of the disciplinary authority to impose either of the punishments under Rule 14 of the Rules.

9. Seeking an explanation on a report of the Flying Squad from the petitioner, in my considered view, does not fulfill the mandatory requirement under Rule 19(1)(a) of the Rules. The impugned order, in my opinion, is unsustainable for the aforesaid reason. Accordingly, the notification dated 11.03.2019 (Annexure-12) is hereby set aside.

10. It shall however be open for the respondents to proceed afresh by giving the petitioner an opportunity as prescribed under Rule 19(1)(a) of the Rules.



11. This writ application is, accordingly,
allowed.

(Chakradhari Sharan Singh, J)

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