

IN THE HIGH COURT OF JUDICATURE AT PATNA

C.W.J.C. No. 2950 of 2021

Indubhushan Kumar, s/o Kameshwar Prasad, r/o vill-Kisunpura, Po-Sripalpur, PS- Koilwar, Dist-Bhojpur

... .. Petitioner/s

Versus

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

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate

For the Opposite Party/s : Mr. Suman Kr. Jha (AC to AAG 3)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

5 17-08-2021 The present petition has been taken up for consideration through the mode of Video Conferencing in view of the prevailing situation on account of COVID-19 Pandemic, requiring social distancing.

2. The present writ petition has been filed for quashing the order dated 29.03.2019, passed by the Commandant,



BMP-4, Dumraon, Buxar, whereby and whereunder the petitioner has been dismissed from service as also for quashing the order dated 01.01.2020, passed by the Deputy Inspector General of Police, Military Police, Central Zone, Patna, by which the appeal filed by the petitioner has been rejected.

3. The brief facts of the case are that the petitioner was sent on deputation from BMP-4, Dumraon to the Office of Additional Director General, Military police, Bihar, Patna by command certificate dated 23.11.2016, whereafter the petitioner had proceeded for joining at Patna and for that purpose, when he reached Dumraon station to board Vibhuti Express, he found that the train had started moving, hence he had boarded the AC coach which was in front of him, however this act of the petitioner was protested by the Coach Attendant and he had misbehaved with the petitioner. The petitioner had then alighted at Arrah station for lodging a complaint but his complaint was not entertained and on the contrary, an F.I.R. was lodged against him bearing Arrah Rail PS case no. 112 of 2016 dated 23.11.2016 under Sections 37(a)(b) of the Bihar Excise (Amendment) Act and Section 145 of the Railway Act.



4. Thereafter, by an order dated 10.12.2016, a charge sheet was issued and charges were framed against the petitioner pertaining to misbehaving with the passengers of the AC Coach in a drunken state leading to filing of an FIR bearing Arrah Rail PS case no. 112 of 2016 as also arrest of the petitioner and it was alleged that the said behaviour of the petitioner amounts to gross indiscipline, irresponsible behaviour, unruly behaviour, intrusion, carelessness, criminal behaviour, whimsical/wild behaviour and has tarnished the image of the police. The petitioner had filed his reply and then the Inquiry Officer had submitted his Inquiry report dated 03.05.2017, finding the allegations levelled against the petitioner to be true. A second show cause notice dated 24.10.2018 was then issued to the petitioner, to which he had submitted his reply and then the order of punishment, dismissing the petitioner from service, dated 29.03.2019 was passed. The petitioner had, then filed an appeal, however the same has also stood dismissed by an order dated 01.01.2020.

5. The learned counsel for the petitioner has submitted that the present case is a case of no evidence, inasmuch as



neither the officials nor the passengers of A.C. Coach of Vibhuti Express, with whom the petitioner is alleged to have had an altercation in a drunken state, have been examined nor the informant of F.I.R. in question has been examined nor the doctor who had conducted the F.S.L. test has been examined. Moreover, it is submitted that the F.S.L. report of the blood and urine sample of the petitioner has been found to be containing zero alcohol, hence it has been proved that the petitioner had not consumed liquor. It is submitted that in fact, a bare perusal of the inquiry report dated 03.05.2017 would show that the Inquiry Officer has also not found any evidence either regarding the petitioner having consumed any liquor or any witness having supported the allegation of altercation having taken place in between the passengers and the petitioner. Nonetheless, a perfunctory and perverse inquiry report has been submitted against the petitioner.

6. *Per contra*, the learned counsel for the respondent-State Sri Suman Jha (AC to AAG 3) has submitted that there is no procedural irregularity in the present case and this Court would not sit in appeal and re-appreciate the evidence to come



to a different conclusion. It is also submitted that the petitioner had admittedly travelled in the AC Coach of the aforesaid Vibhuti Express without ticket and had an altercation with the Coach Attendant, which is apparent from the reply submitted by the petitioner dated 12.11.2018. The learned counsel for the respondent- State has further submitted that the petitioner has also filed a memorial and the same is pending. Thus, it is submitted that the order of dismissal as also the appellate order dated 29.03.2019 and 01.01.2020 respectively do not require any interference by this Court.

7. I have heard the learned counsel for the parties and gone through the materials on record. The undisputed fact is that neither any oral evidence has been led by the prosecution nor any documentary evidence has been produced by the prosecution to prove the charges levelled against the petitioner and in fact, the Inquiry Officer, in his inquiry report dated 03.05.2017 has also concluded that there is no evidence regarding the petitioner being in an intoxicated state on the alleged date and time of occurrence, apart from the fact that admittedly, no evidence has been led by the prosecution to show



that any sort of altercation had taken place in-between the petitioner and the passengers, inasmuch as neither any of the Railway staff/official nor any passenger has been examined by the prosecution. Thus, admittedly, the present case is a case of no evidence. Moreover, this Court finds that the blood and urine samples of the petitioner, taken by the police personnel and sent to the F.S.L. have also been found to be containing zero alcohol, hence the allegation of the prosecution that the petitioner had an altercation with the passengers in a drunken state has no legs to stand. In this regard, it would be useful to refer to a judgment rendered by the Hon'ble Apex Court, in the case of ***Roop Singh Negi v. Punjab National Bank and others***, reported in **(2009) 2 SCC 570**, paragraphs no. 14, 15 and 23 whereof are reproduced herein below :-

"14. Indisputably, a departmental proceeding is a quasi-judicial proceeding. The enquiry officer performs a quasi-judicial function. The charges levelled against the delinquent officer must be found to have been proved. The enquiry officer has a duty to arrive at a finding upon taking into consideration the materials brought on record by the parties. The purported evidence collected during investigation by the invest-



igating officer against all the accused by itself could not be treated to be evidence in the disciplinary proceeding. No witness was examined to prove the said documents. The management witnesses merely tendered the documents and did not prove the contents thereof. Reliance, inter alia, was placed by the enquiry officer on the FIR which could not have been treated as evidence.

15. We have noticed hereinbefore that the only basic evidence whereupon reliance has been placed by the enquiry officer was the purported confession made by the appellant before the police. According to the appellant, he was forced to sign on the said confession, as he was tortured in the police station. The appellant being an employee of the Bank, the said confession should have been proved. Some evidence should have been brought on record to show that he had indulged in stealing the bank draft book. Admittedly, there was no direct evidence. Even there was no indirect evidence. The tenor of the report demonstrates that the enquiry officer had made up his mind to find him guilty as otherwise he would not have proceeded on the basis that the offence was committed in such a manner that no evidence was left.

23. Furthermore, the order of the disciplinary authority as also the appellate authority are not suppor-



ted by any reason. As the orders passed by them have severe civil consequences, appropriate reasons should have been assigned. If the enquiry officer had relied upon the confession made by the appellant, there was no reason as to why the order of discharge passed by the criminal court on the basis of selfsame evidence should not have been taken into consideration. The materials brought on record pointing out the guilt are required to be proved. A decision must be arrived at on some evidence, which is legally admissible. The provisions of the Evidence Act may not be applicable in a departmental proceeding but the principles of natural justice are. As the report of the enquiry officer was based on merely ipse dixit as also surmises and conjectures, the same could not have been sustained. The inferences drawn by the enquiry officer apparently were not supported by any evidence. Suspicion, as is well known, however high may be, can under no circumstances be held to be a substitute for legal proof."

8. This Court would further refer to a judgment rendered by the Hon'ble Apex Court, reported in **(1999) 2 SCC pg 10 (Kuldeep Singh v. The Commissioner of Police and others)**, paragraphs no. 4 to 10, 25 to 32 and 39 whereof, are reproduced herein below :-



“4. Learned counsel for the appellant has contended that the findings recorded by the enquiry officer cannot be sustained as the enquiry itself was held in utter violation of the principles of natural justice. It is also contended that there was no evidence worth the name to sustain the charge framed against the appellant and, therefore, the findings are perverse particularly as no reasonable person could have come to these findings on the basis of the evidence brought on record.

5. Learned counsel appearing on behalf of the Union of India has, on the other hand, contended that the enquiry was held in consonance with the principles of natural justice and during the course of the enquiry, full opportunity was given to the appellant to defend himself. As far as the evidence is concerned, it is contended that though it is true that none of the complainants was examined but on account of Rule 16(3) of the Delhi Police (P&A) Rules, 1980, it was not required to produce the complainant in person as the Rule itself contemplated that in the absence of a witness whose presence could not be procured without undue delay, inconvenience or expense, his statement, already made on an earlier occasion, could be placed on record in the departmental enquiry and the matter could be decided on that basis. It was under this Rule that the previous joint state-



ment of the complainants was brought on record without examining any of them. Learned counsel for the respondents contended that the scope of judicial review in disciplinary proceedings is extremely narrow and limited. The Court cannot, it is contended, re-examine or reappraise the evidence and substitute its own conclusion in place of the conclusions arrived at by the enquiry officer or the disciplinary authority on that evidence.

6. It is no doubt true that the High Court under Article 226 or this Court under Article 32 would not interfere with the findings recorded at the departmental enquiry by the disciplinary authority or the enquiry officer as a matter of course. The Court cannot sit in appeal over those findings and assume the role of the appellate authority. But this does not mean that in no circumstance can the Court interfere. The power of judicial review available to the High Court as also to this Court under the Constitution takes in its stride the domestic enquiry as well and it can interfere with the conclusions reached therein if there was no evidence to support the findings or the findings recorded were such as could not have been reached by an ordinary prudent man or the findings were perverse or made at the dictates of the superior authority.



7. In *Nand Kishore Prasad v. State of Bihar* [(1978) 3 SCC 366 : 1978 SCC (L&S) 458 : AIR 1978 SC 1277 : (1978) 3 SCR 708] it was held that the disciplinary proceedings before a domestic tribunal are of quasi-judicial character and, therefore, it is necessary that the Tribunal should arrive at its conclusions on the basis of some evidence, that is to say, such evidence which and that too, with some degree of definiteness, points to the guilt of the delinquent and does not leave the matter in a suspicious state as mere suspicion cannot take the place of proof even in domestic enquiries. If, therefore, there is no evidence to sustain the charges framed against the delinquent, he cannot be held to be guilty as in that event, the findings recorded by the enquiry officer would be perverse.

8. The findings recorded in a domestic enquiry can be characterised as perverse if it is shown that such findings are not supported by any evidence on record or are not based on the evidence adduced by the parties or no reasonable person could have come to those findings on the basis of that evidence. This principle was laid down by this Court in *State of A.P. v. Rama Rao* [(1964) 2 LLJ 150 : AIR 1963 SC 1723 : (1964) 3 SCR 25] in which the question was whether the High Court under Article 226 could interfere with the findings recorded at the depart-



mental enquiry. This decision was followed in Central Bank of India Ltd. v. Prakash Chand Jain [(1969) 2 LLJ 377 :AIR 1969 SC 983] and Bharat Iron Works v. Bhagubhai Balubhai Patel [(1976) 1 SCC 518 : 1976 SCC (L&S) 92 : 1976 Lab IC 4 : AIR 1976 SC 98 : (1976) 2 SCR 280] . In Rajinder Kumar Kindra v. Delhi Admn. [(1984) 4 SCC 635 : 1985 SCC (L&S) 131 : AIR 1984 SC 1805 : (1985) 1 SCR 866] it was laid down that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man could come, the findings can be rejected as perverse. It was also laid down that where a quasi-judicial tribunal records findings based on no legal evidence and the findings are its mere ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated.

9. *Normally the High Court and this Court would not interfere with the findings of fact recorded at the domestic enquiry but if the finding of “guilt” is based on no evidence, it would be a perverse finding and would be amenable to judicial scrutiny.*

10. *A broad distinction has, therefore, to be maintained between the decisions which are perverse and those which are not. If a decision is arrived at on no*



evidence or evidence which is thoroughly unreliable and no reasonable person would act upon it, the order would be perverse. But if there is some evidence on record which is acceptable and which could be relied upon, howsoever compendious it may be, the conclusions would not be treated as perverse and the findings would not be interfered with.

25. What immediately strikes the mind is that Smt. Meena Mishra who is alleged to have paid the amount of Rs 1000 to the appellant, stated in clear terms as a witness for the Department that she had not made any payment to the appellant. This payment is not proved in any other manner as none of the three recipients of the above amount, who were the complainants, has been produced at the departmental enquiry, though two of them, namely, Radhey Shyam and Rajpal Singh were proposed to be examined.

26. Non-production of the complainants is sought to be justified with reference to Rule 16(3) of the Delhi Police (P&A) Rules, 1980. Rule 16(3) is as under:

“If the accused police officer does not admit the misconduct, the EO shall proceed to record evidence in support of the accusation, as is available and necessary to support the charge. As far as possible, the witnesses shall be examined direct and in the pres-



ence of the accused, who shall be given opportunity to take notes of their statements and cross-examine them. The EO is empowered, however, to bring on record the earlier statement of any witness whose presence cannot, in the opinion of such officer be procured without undue delay, inconvenience or expense necessary provided that it has been recorded and attested by a police officer superior in rank to the accused officer or by a Magistrate and is either signed by the person making it or has been recorded by such officer during an investigation or a judicial enquiry or trial. The statements and documents so brought on record in the departmental proceedings shall also be read out to the accused officer and shall be given an opportunity to take notes. Unsigned statements shall be brought on record only through recording the statements of the officer or Magistrate who had recorded the statement of the witness concerned. The accused shall be bound to answer any questions which the EO may deem fit to put to him with a view to elucidating the facts referred to in the statements or documents thus brought on record.”

27. This Rule which lays down the procedure to be followed in the departmental enquiry itself postulates examination of all the witnesses in the presence of the accused who is also to be given an opportunity to



cross-examine them. In case, the presence of any witness cannot be procured without undue delay, inconvenience or expense, his previous statement could be brought on record subject to the condition that the previous statement was recorded and attested by a police officer superior in rank than the delinquent. If such statement was recorded by the Magistrate and attested by him, then also it could be brought on record. The further requirement is that the statement either should have been signed by the person concerned, namely, the person who has made that statement, or it was recorded during an investigation or a judicial enquiry or trial. The Rule further provides that unsigned statement shall be brought on record only through the process of examining the officer or the Magistrate who had earlier recorded the statement of the witness whose presence could not be procured.

28. *Rule 16(3) is almost akin to Sections 32 and 33 of the Evidence Act. Before the Rule can be invoked, the factors enumerated therein, namely, that the presence of the witness cannot be procured without undue delay, inconvenience or expense, have to be found to be existing as they constitute the “condition precedent” for the exercise of jurisdiction for this purpose. In the absence of these factors, the jurisdiction under Rule 16(3) cannot be exercised.*



29. Rajpal Singh and Radhey Shyam who were the original complainants along with Shiv Kumar, were not examined and the enquiry officer, regarding their absence, has stated in his report as under:

“The two prosecution witnesses, Rajpal Singh and Radhey Shyam have not attended the proceeding. They have not been found residing in their village now and it had come to notice that the defaulter has managed their disappearance and has settled them somewhere in Devli Khanpur and also has arranged their employment but the addresses of those PWs are not known. Such is the act of the defaulter to create his defence and is an attempt to hide his misconduct, though their complaint, Ex. PW-1/A has been exhibited and has been taken on file to ascertain the facts and for natural justice.”

30. This will show that the blame for the non-availability of these two witnesses has been laid on the appellant who was already under suspension and it is not understandable as to how and on what basis or on what material the enquiry officer came to the conclusion that the appellant was responsible for their disappearance or had procured employment for them in Devli Khanpur. If it was known to the enquiry officer that they were available in Devli Khanpur, was any attempt made to contact them at Devli Khanpur or to



bring them to the enquiry proceedings from that place, is not indicated by the enquiry officer in his report making it obvious that the factors necessary for the exercise of jurisdiction under Rule 16(3) were not present and it was not open to the enquiry officer to have taken recourse to this Rule to bring on record the previous statement of the complainants which allegedly was recorded by Inspector D.D. Sharma. Moreover, the so-called previous statement itself of the complainants appears to be a highly suspicious document for the reason that SHO D.D. Sharma had stated before the enquiry officer that he had received a complaint of Radhey Shyam, Rajpal Singh and Shiv Kumar whereupon all the three persons were summoned by him and after verifying the facts from those complainants, had recorded their statement which he had dictated to ASI Jagdish Prasad. There were, therefore, two documents:

(i) The original complaint made by the aforesaid three persons.

(ii) The statement of these persons recorded by ASI Jagdish Prasad at the dictation of SHO D.D. Sharma, after verifying the facts set out in the complaint from these persons.

31. The original complaint was not placed on the record and it was the statement, recorded by SHO D.D.



Sharma, which was produced before the enquiry officer. The absence of the original complaint, therefore, indicates that there was, in fact, no complaint in existence which further supports the statement of the Department's own witness, Smt. Meena Mishra that no payment was made by her on 22-2-1990.

32. Apart from the above, Rule 16(3) has to be considered in the light of the provisions contained in Article 311(2) of the Constitution to find out whether it purports to provide reasonable opportunity of hearing to the delinquent. Reasonable opportunity contemplated by Article 311(2) means "hearing" in accordance with the principles of natural justice under which one of the basic requirements is that all the witnesses in the departmental enquiry shall be examined in the presence of the delinquent who shall be given an opportunity to cross-examine them. Where a statement previously made by a witness, either during the course of preliminary enquiry or investigation, is proposed to be brought on record in the departmental proceedings, the law as laid down by this Court is that a copy of that statement should first be supplied to the delinquent who should thereafter be given an opportunity to cross-examine that witness.

39. From the findings recorded separately by the Deputy Commissioner of Police, it would appear that



there is a voucher indicating payment of Rs 1000 to Rajpal Singh, one of the labourers, on 8-2-1990. This document was not mentioned in the charge-sheet in which only two documents were proposed to be relied upon against the appellant, namely, copy of the report of SHO Lajpat Nagar dated 5-3-1990 against the appellant and the copy of the labourers' statement. This document has, therefore, to be excluded from consideration as it could not have been relied upon or even referred to by the Deputy Commissioner of Police. Moreover, according to the charge framed against the appellant, payment was made on 22-2-1990 and not on 8-2-1990 as indicated in the voucher and, therefore, the voucher for this reason also has to be excluded."

9. Lastly, this Court would gainfully refer to yet another judgment rendered by the Hon'ble Apex Court in the case of *State of U.P. v. Saroj Kr. Sinha, reported in (2010) 2 SCC 772*, paragraphs no. 26 to 30 and 37 to 39 whereof, are reproduced herein below :-

26. The first inquiry report is vitiated also on the ground that the inquiry officers failed to fix any date for the appearance of the respondent to answer the charges. Rule 7(x) clearly provides as under:



“7. (x) Where the charged government servant does not appear on the date fixed in the inquiry or at any stage of the proceeding in spite of the service of the notice on him or having knowledge of the date, the inquiry officer shall proceed with the inquiry ex parte. In such a case the inquiry officer shall record the statement of witnesses mentioned in the charge-sheet in absence of the charged government servant.”

27. A bare perusal of the aforesaid sub-rule shows that when the respondent had failed to submit the explanation to the charge-sheet it was incumbent upon the inquiry officer to fix a date for his appearance in the inquiry. It is only in a case when the government servant despite notice of the date fixed failed to appear that the inquiry officer can proceed with the inquiry ex parte. Even in such circumstances it is incumbent on the inquiry officer to record the statement of witnesses mentioned in the charge-sheet. Since the government servant is absent, he would clearly lose the benefit of cross-examination of the witnesses. But nonetheless in order to establish the charges the Department is required to produce the necessary evidence before the inquiry officer. This is so as to avoid the charge that the inquiry officer has acted as a prosecutor as well as a judge.



28. *An inquiry officer acting in a quasi-judicial authority is in the position of an independent adjudicator. He is not supposed to be a representative of the department/ disciplinary authority/Government. His function is to examine the evidence presented by the Department, even in the absence of the delinquent official to see as to whether the un rebutted evidence is sufficient to hold that the charges are proved. In the present case the aforesaid procedure has not been observed. Since no oral evidence has been examined the documents have not been proved, and could not have been taken into consideration to conclude that the charges have been proved against the respondents.*

29. *Apart from the above, by virtue of Article 311(2) of the Constitution of India the departmental enquiry had to be conducted in accordance with the rules of natural justice. It is a basic requirement of the rules of natural justice that an employee be given a reasonable opportunity of being heard in any proceedings which may culminate in punishment being imposed on the employee.*

30. *When a departmental enquiry is conducted against the government servant it cannot be treated as a casual exercise. The enquiry proceedings also cannot be conducted with a closed mind. The inquiry officer has to be wholly unbiased. The rules of natural*



justice are required to be observed to ensure not only that justice is done but is manifestly seen to be done. The object of rules of natural justice is to ensure that a government servant is treated fairly in proceedings which may culminate in imposition of punishment including dismissal/removal from service.

37. We are of the considered opinion that the aforesaid observations are fully applicable in the facts and circumstances of this case. Non-disclosure of documents having a potential to cause prejudice to a government servant in the enquiry proceedings would clearly be denial of a reasonable opportunity to submit a plausible and effective rebuttal to the charges being enquired into against the government servant.

38. The aforesaid proposition of law has been reiterated in Tirlok Nath v. Union of India [1967 SLR 759 (SC)] wherein it was held that non-supply of the documents amounted to denial of reasonable opportunity. It was held as follows: (SLR pp. 764-65)

“... Had he decided to do so, the documents would have been useful to the appellant for cross-examining the witnesses who deposed against him. Again had the copies of the documents been furnished to the appellant he might, after perusing them, would have exercised his right under the rule and asked for an oral inquiry to be held. Therefore, in our view the failure



of the inquiry officer to furnish the appellant with copies of the documents such as the first information report and the statements recorded at the Shidipura house and during the investigation must be held to have caused prejudice to the appellant in making his defence at the inquiry.”

39. The proposition of law that a government employee facing a departmental enquiry is entitled to all the relevant statements, documents and other materials to enable him to have a reasonable opportunity to defend himself in the departmental enquiry against the charges is too well established to need any further reiteration. Nevertheless given the facts of this case we may re-emphasise the law as stated by this Court in State of Punjab v. Bhagat Ram [(1975) 1 SCC 155 : 1975 SCC (L&S) 18] : (SCC p. 156, paras 6-8)

“6. The State contended that the respondent was not entitled to get copies of statements. The reasoning of the State was that the respondent was given the opportunity to cross-examine the witnesses and during the cross-examination the respondent would have the opportunity of confronting the witnesses with the statements. It is contended that the synopsis was adequate to acquaint the respondent with the gist of the evidence.

7. The meaning of a reasonable opportunity of show-



ing cause against the action proposed to be taken is that the government servant is afforded a reasonable opportunity to defend himself against charges on which inquiry is held. The government servant should be given an opportunity to deny his guilt and establish his innocence. He can do so when he is told what the charges against him are. He can do so by cross-examining the witnesses produced against him. The object of supplying statements is that the government servant will be able to refer to the previous statements of the witnesses proposed to be examined against the government servant. Unless the statements are given to the government servant he will not be able to have an effective and useful cross-examination.

8. It is unjust and unfair to deny the government servant copies of statements of witnesses examined during investigation and produced at the inquiry in support of the charges levelled against the government servant. A synopsis does not satisfy the requirements of giving the government servant a reasonable opportunity of showing cause against the action proposed to be taken."

10. Thus, this Court finds from the inquiry report dated 03.05.2017 that no relevant witness i.e. either the staff/officer¹⁻¹ of the train in question or the



informant who had lodged the F.I.R. or the doctor who had conducted F.S.L. test have been examined and moreover, the Inquiry Officer himself, in his Inquiry report dated 03.05.2017, has not found any evidence as against the petitioner herein vis-à-vis the charges levelled against him, thus on the very face of it, the inquiry report dated 03.05.2017 is *nonest* in the eyes of law, as such, stands vitiated, hence is quashed, especially being contrary to the law laid down by the Hon'ble Apex Court in the case of ***Roop Singh Negi (supra)***, ***Kuldeep Singh (supra)*** and ***Saroj Kr. Sinha (supra)***. Consequently, the impugned order of punishment dated 29.03.2019, passed by the Commandant, BMP-4, Dumraon, Buxar, is also quashed since the same is based on a perverse, perfunctory and an unlawful inquiry report, which has already stood quashed. Since the views expressed by the disciplinary authority in its order of punishment dated 29.03.2019 have been mechanically endorsed by the appellate authority and moreover, the order of punishment dated 29.03.2019 has already stood quashed herein above, the order dated 01.01.2020, passed by the appellate authority i.e. the Deputy Inspector General of Police, Military Police, Central Zone, Patna rejecting the appeal of the petitioner has got no



legs to stand, hence is also set aside.

11. Now coming to the issue of back wages, this Court finds that since the disciplinary proceedings have been attended with malafide and since the actions of the disciplinary authority reek of a design to somehow inflict punishment of dismissal upon the petitioner herein, this Court deems it fit and appropriate to grant 100% back wages to the petitioner herein along with other consequential benefits as is admissible to the petitioner, in view of the law laid down by the Hon'ble Apex Court in the case of case *Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya & Ors., reported in (2013) 10 SCC 324.*

12. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV Date	NA
Uploading date	
Transmission date	NA

