

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4735 of 2011

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Lal Bahadur Ram S/O Late Jadu Ram R/O Srinagar, P.S.- Siwan Muffasil,
District - Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Home Special Department, Government Of Bihar, Patna
3. The Principal Secretary, Cabinet Vigilance Department, Government Of Bihar, Patna
4. The Director General Of Police-Cum-Inspector General Of Police, Government Of Bihar, Patna
5. The Inspector General Of Police, Headquarter, Bihar, Patna
6. The Inspector General , Special Vigilance Unit, Patna-Cum-Inquiry Officer Of The Departmental Inqui
7. The Addl. Director General, Cabinet Vigilance Department, Government Of Bihar, Patna
8. The Deputy Inspector General, Cabinet Vigilance Department, Government Of Bihar, Patna
9. The Superintendent Of Police, Cabinet Vigilance Department, Government Of Bihar, Patna
10. The Deputy Secretary, Home Special Department, Government Of Bihar, Patna
11. The Deputy Secretary, Home Police Department, Government Of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jagnnath Singh, Advocate Mr. Bhargava Pandey, Advocate
For the Respondent/s	:	Mr. Anirban Kundu, SC-24

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

ORAL JUDGMENT

Date : 23-08-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:-



“1. That this is an application for issuance of a writ in the nature of certiorari or any other appropriate Writ/Rule/Direction for quashing the order as contained in Memo no. 28 dated 17.1.2011 (Annexure- 17) issued under the signature of Inspector General of Police, Headquarter, Bihar, Patna whereby and whereunder the punishment stoppage of 3 increments with cumulative effect has been considered to be not a major punishment i.e. order dated 7.12.2009 (Annexure-14) which has been confirmed by the respondents by rejecting the application filed by the petitioner dated 23.8.2010 (Annexure – 16) in compliance to the order dated 5.8.2010 passed in C.W.J.C. No. 1817 of 2010 (Lal Bahadur Ram Vs. The State of Bihar & Ors.) (Annexure -15).”

3. The petitioner was subjected to disciplinary proceedings and it was concluded in imposition of penalty of stoppage of three increments with cumulative effect. Such order dated 07.12.2009 was subject-matter in C.W.J.C. No. 1817 of 2010. Aforesaid writ application was disposed on 05.08.2010.

Order of the learned single Judge dated 05.08.2010 passed in C.W.J.C. No. 1817 of 2010 reads as under (page 96 and 97):-

“Heard learned counsel for the petitioner and the State.

The only submission made on behalf of the petitioner is that the charge in the Departmental proceeding was that he had sworn a wrong affidavit with the intention to aid the accused in the



trial. The finding of the enquiry officer is that the petitioner had signed the affidavit which is admitted by him but the finding also is that it was a bona fide mistake not done intentionally.

The punishment imposed is stoppage of three increments with cumulative effect and that during the period of suspension nothing beyond substance allowance shall be payable.

Learned counsel submits that in view of the nature of the finding of the enquiry officer the punishment is excessive and therefore the petitioner proposes to represent on the issue of quantum of punishment only.

Counsel for the State rightly submits that the quantification of the punishment is the prerogative of an employee.

If the petitioner represents on the issue of quantum of punishment only, let the respondents consider the same and dispose it off by a reasoned and speaking order within a maximum period of six weeks from the date of receipt/production of a copy of such representation with copy of such order.

The writ application stands disposed.”

4. The disciplinary authority passed order on 08.11.2010 while imposing punishment of three increments with cumulative effect.

5. Feeling aggrieved and dissatisfied with the order of the later punishment dated 08.11.2010, petitioner has presented this petition.

6. Learned counsel for the petitioner submitted that



enquiring officer is stated to have exonerated charges and some of the issues were proved in part. The same was not appreciate by the disciplinary authority while imposing major penalty. It is also submitted that imposition of major penalty for the alleged charges which were proved in disciplinary proceedings do not commensurate in so far as imposition of major penalty of withholding of three increments with cumulative effect.

7. Per contra, learned counsel for the respondent submitted that disciplinary authority has taken note of the learned single Judge order dated 05.08.2010 passed in C.W.J.C. No. 1817 of 2010 read with the petitioner's representation. There is no infirmity in the impugned order. It is also submitted that scope of interference with disciplinary proceedings in the present case is restricted in the light of learned single Judge order dated 05.08.2010.

8. Heard learned counsels for respective parties.

9. Petitioner was subjected to disciplinary proceedings and it was concluded in imposition of penalty of withholding three annual increments with cumulative effect and it was the subject-matter of litigation in C.W.J.C. No. 1817 of 2010 and it was decided on 05.08.2010. Learned Judge while disposing the aforesaid petition has only made an observation if



the petitioner represents on the issue of quantum of punishment in that event concerned respondent to consider and pass a speaking order.

10. Perusal of the impugned order at Annexure-17, it is evident that the disciplinary authority has taken note of the petitioner's representation read with the disciplinary proceedings record. Therefore, petitioner has not made out a case.

11. Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	26.08.2022
Transmission Date	

