

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1619 of 2021

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Nigam Kumar Verma, Gender- Male, aged about 53 years, S/o-Late Kapileshwar Prasad Verma Resident of Flat No.301, Shyama Apartment, North Block, Navnit Vihar, Lohiyapath, P.O.-Sahay Nagar, P.S.-Rupashpur, Jagdeopath, Bailey Road, District-Patna.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police (Law and Order) Bihar, Patna.
4. The Deputy Inspector General of Police, Saran Range, Chapra.
5. The Superintendent of Police, District-Saran.
6. The Superintendent of Police, District -Siwan.
7. The Sub Divisional Police Officer, Sadar, District-Saran, Chapra.

... .. Respondents

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Appearance :

For the Petitioner : Mr.Sanjay Kumar Giri, Adv.
For the State : Mr. Dhurendra Kumar AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 01-12-2022

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

2. The writ application has been filed for the following
relief:-

“i. To issue a writ of certiorari for quashing of memo no.2326 dated 26.08.2019 issued by the respondent no. 4 whereby and whereunder he has punished the petitioner with one black mark which resulted into stoppage of increment of his salary for six months in effect, as annexed in Annexure- 5.

ii. To further issue a writ of certiorari for quashing of memo no. 4950 dated 30.08.2019 issued by respondent no. 5 whereby and whereunder he has passed a consequential order



reiterating the punishment order of respondent no. 4 by which one black mark was imposed upon the petitioner with stoppage of increment for six months of his salary without any its effect on future enhancement of salary of the petitioner, as annexed in Annexure- 6.

iii. To further issue a writ of certiorari for quashing of rejection order of respondent no. 3 dated 26.06.2020 whereby and whereunder he has rejected the appeal of the petitioner filed against his order of punishment of one black mark with stoppage of increment with six months without any effect on future enhancement of salary, as annexed in Annexure- 7.

iv. To issue a writ of mandamus commanding the respondents to pay the full salary of the petitioner for his suspension period.

v. For any other relief or reliefs for which the petitioner is entitled for.”

3. The brief background leading to institution of proceeding against the petitioner is that while he was posted as Station House Officer (SHO) of Chapra town police station, he failed to register an FIR with due diligence in respect of an occurrence which took place on 12.3.2019. On this date, at about 9.30 PM, the informant, wife of Ex -army personnel along with her grand son, reported that she had been beaten by the accused persons over a trivial dispute regarding turning of a night bulb. It is not in dispute by the petitioner that the *fardbeyan* of the victim lady was recorded in Sadar hospital on 13.03.2019, at about 8.30 AM. It is also note in dispute that the *fardbeyan* was forwarded to Chapra Town police station on 14.03.2019. Another fact which is



not in dispute is that the FIR was registered on 16.03.2019. In view of these admitted facts, there is not much left to be examined insofar as the alleged lack of due diligence on the part of the petitioner (SHO) in registering the FIR.

4. The petitioner's counsel, however, has argued that an unwritten rule/procedure was imposed by the Superintendent of Police of the District. Accordingly, for adding Section 307 of the IPC in the FIR, the SHO was required to take permission of the Superintendent of Police (Respondent no.5). He submits that the Assistant Sub Inspector of police had put up the case for lodging of the FIR before the petitioner (SHO) on 15.03.2019. He immediately sought permission of the Respondent no.5, who conveyed the consent/permission letter in the evening on 15.3.2019. The petitioner's counsel has raised this plea to meet the allegation of lack of due diligence in lodging the FIR, proved in the enquiry, for which, he has been visited with the punishment.

5. The learned State counsel, on the other hand, submits that a charge memo dated 15.04.2019, was issued to the petitioner. The same was conducted, as per prescribed procedure. In his reply to the charge memo, the petitioner, has, in fact, admitted that the delay occurred in registration of the FIR. He, however, has tried to persuade to Authorities to accept the



reasons justifying the delay in the lodging the FIR. At the proceedings, witnesses were examined and after considering the evidence, submissions of the presenting officer, the proceeding was concluded and the charges found proved. The Deputy Inspector General of Police, Saran, Range agreed with the same therefore by speaking order dated 26.08.2019, the petitioner has been visited with impugned order of punishment. It is submitted that the petitioner challenged the order of the DIG before the Director General of Police. The DGP by a very elaborate and detailed order showing consideration of the appeal has rejected the petitioner's appeal under order dated 26.6.2020, as contained in Annexure-8 to the writ petition. There being no procedural infirmity, it is submitted that the order(s) requires no interference.

6. This Court, having considered the submissions advanced on behalf of the parties and on going through the records, is in agreement with the submission advanced on behalf of the State. The above noted facts, with reference to dates, clearly shows that there is delay on the part of the petitioner in registration of the FIR. The same is also admitted. The reasons assigned to justify such delay are unacceptable by any legal standards whatsoever. The plea regarding unwritten rule/procedure being imposed by the Superintend of Police in the District, even if



correct, cannot be made the basis for the petitioner to justify the delay. The matter has remained pending, however, if at all for such reason, for sometime on 15.03.2019 itself. The admitted position is that the *fardbeyan* was recorded on 13.03.2019. The same was received in the petitioner’s police station on 14.003.2019 whereas the FIR has been lodged on 16.03.2019. The facts being so, this Court does not find any reason to interfere with the punishment awarded to the petitioner after observing the procedural requirement which is clear from the records. This Court would also notice that the quantum of punishment is in no way disproportionate or excessive. This Court does not find any reason to interfere with the punishment.

7. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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Transmission Date	

