

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1168 of 2018

In
Civil Writ Jurisdiction Case No.19887 of 2014

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Anil Kumar Singh Son of Dev Nandan Prasad Singh, resident of Village-
Lakho, P.S.- Muffasil, District- Begusarai.

... .. Appellant/s

Versus

1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. D.G. of Police, Bihar, Patna.
3. I.G. Darbhanga Zone, Darbhanga.
4. D.I.G. Darbhanga Range, Darbhanga.
5. S.S.P. Darbhanga.
6. S.P. Nalanda.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Shruti Sinha

For the Respondent/s : Mr.Prabhat Kumar Verma -Aag3

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CORAM: HONOURABLE MR. JUSTICE RAJAN GUPTA

and

HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJAN GUPTA)

Date : 12-04-2022

The present appeal has been filed against the
order dated 3.7.2018 passed in CWJC No. 19887 of
2014 whereby and whereunder the writ petition
has been dismissed.



The appellant herein had filed the aforesaid writ petition for quashing the order of dismissal from services dated 3.9.2012, passed by the Superintendent of Police, Nalanda, as also for quashing the order dated 7.1.2013, passed by the DIG, Darbhanga Range, Darbhanga, whereby and whereunder the appeal of the appellant herein had been dismissed.

The brief facts of the case are that while the appellant was posted as constable in Darbhanga District, allegation was levelled that in the morning of 9/10.6.2008, the appellant had entered the house of one female and had raped her whereafter the appellant was suspended vide order dated 16.6.2008. A charge-sheet dated 15.7.2008 was issued to the petitioner and a departmental proceeding bearing departmental proceeding no. 117 of 2008 was initiated. The appellant had submitted a show cause, whereafter witnesses were examined and the Inquiry Officer had submitted the inquiry report dated 24.4.2012, finding all the charges to have been proved. The



Superintendent of Police, Darbhanga had then issued a second show cause notice to the petitioner, to which the petitioner had submitted his reply and then, by an order dated 30.4.2012, which was communicated to the petitioner vide memo dated 3.9.2012, the petitioner was dismissed from his services. The appellant herein had filed an appeal, however, the same was also rejected by the DIG, Darbhanga Range, Darbhanga vide memo dated 7.1.2013. The appellant had then filed a memorial before the Director General of Police, Bihar, Patna, which has also stood rejected vide order contained in memo dated 5.1.2017.

The learned counsel for the appellant has submitted that firstly, the appellant was not granted any opportunity to cross-examine the witnesses produced during the course of the departmental inquiry and secondly, he was not supplied with a copy of the inquiry report along with the second show cause notice issued to him, resulting in grave prejudice to the appellant and non-compliance of the principles of natural justice.



Hence, it is contended that the order of dismissal of the petitioner from services is bad in law and fit to be set aside. Consequently, it is submitted that the appellate order and the order passed on the memorial of the appellant are also required to be quashed.

Per contra, the learned counsel for the Respondent-State has submitted that the petitioner had engaged in a heinous crime resulting in tarnishing the image of the police force for which charges were issued against the petitioner and a charge-sheet dated 15.7.2008 was issued to the petitioner on the allegation of him having entered the house of a female and committed rape resulting in the image of the police force being tarnished, whereafter, the departmental inquiry was conducted and witnesses were examined, however, the appellant herein had not made any endeavour to cross-examine the witnesses and instead, had submitted his clarification / representation in his defence and had prayed for exonerating him, however, the Inquiry



Officer, vide inquiry report dated 24.4.2012, had found the appellant herein to be guilty of the charges levelled against him. The Superintendent of Police, Darbhanga, had then issued a second show cause notice to the petitioner, to which the appellant herein had submitted a reply on 10.5.2012, which is annexed as Annexure-4 to the writ petition and then, the order of dismissal of the petitioner from service was passed by the Superintendent of Police, Darbhanga. Subsequently, the appeal and the memorial filed by the appellant herein have also stood dismissed. It is further submitted by the learned counsel for the Respondent-State that a bare perusal of the reply of the appellant to the second show cause notice would show that he had neither raised the issue regarding no opportunity being granted to him to cross-examine the witnesses nor regarding inquiry report having not been supplied to him, but the only issue raised by the appellant was that in cases where for the same charge / offences / allegations, a disciplinary proceeding and a



criminal case are going on simultaneously, the disciplinary proceedings should be stayed till disposal of the criminal proceedings.

We have heard the learned counsel for the parties and perused the materials available on record. At the outset, it would be apt to reproduce the relevant portion of the impugned order dated 3.7.2018 hereinbelow:-

"On going through the records of the case including the petitioner's response to the second show cause which is at Annexure 4 to the writ petition, it is clear that other than denying the allegations and saying that the allegations are false, petitioner has not raised any of the issues being raised in Court today, before the authorities. He has only submitted that the proceeding may not continue since a criminal trial is pending against him in the matter.

There is no whisper in the second show cause reply that a copy of the enquiry report was not served on him or he was denied the opportunity to cross examine the three witnesses which have been considered by the Enquiry officer during enquiry. It appears that these



grounds have been taken by the petitioner as an after thought for the first time in the writ petition, though he participated in the departmental proceedings on his own volition without raising such objections which is evident from the second show cause also.

In the circumstances, this Court finds no ground to interfere in the matter. The writ petition is devoid of merit and it is accordingly dismissed.

On going through the records, we find that since the appellant has neither raised the issue regarding non supply of inquiry report to him nor regarding him being denied the opportunity to cross-examine the witnesses, either during the course of the departmental inquiry / proceeding or in the reply filed by him to the second show cause notice, such factual aspect of the matter cannot be raised at this stage inasmuch as the appellant herein had never alleged any procedural irregularity, at the very initial stage. In such view of the matter, no infirmity can be found with the impugned order dated 3.7.2018 passed by the



learned Single Judge, hence, the present appeal stands dismissed, being devoid of any merit.

(Rajan Gupta, J)

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
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