

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16046 of 2015

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Ram Sanehi Ram Son of Shri Hari Ram, resident of Village- Hematpur, P.S.
AraMuffasil, Outpost- Dhobha Bazar, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home (Police), Government of Bihar, Patna
2. The Principal Secretary, Department of Home Police, Government of Bihar, Patna.
3. The Inspector General, Prison and Reforms Services, Bihar, Patna.
4. The Joint Secretary-cum-DirectorAdministration, Prison and Reforms Services, Bihar, Patna
5. The Deputy inspector General Administration, Prison and Reforms Services, Bihar, Patna
6. The Superintendent, Divisional Jail, Samastipur.
7. The Superintendent, Divisional Jail, Ara
8. The Superintendent, Sub Jail, Rosera,Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
For the Respondent/s : Mr. Prashant Kumar, AC to SC 05

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 17-10-2022

In the instant petition, petitioner has prayed for the following relief/reliefs:

“That this is an application for issuance of a writ in the nature of certiorari to quash the order passed by the Inspector General, Prison and Reforms Services, Bihar, Patna vide Memo No. 6139 dated 28.11.2014 by which the petitioner has been awarded the punishment of dismissal from service and also to quash the order passed in appeal by the Principal Secretary,



Department of Home (Police) by which the appeal filed by the petitioner has been rejected and an order to that effect has been communicated vide Memo No. 3873 dated 03.07.2015 under the signature of the Deputy Inspector General (Administration), Prison and Reform Services, Bihar, Patna and the said order has been communicated to the petitioner vide Memo No. 1870 dated 09.01.2015 by the Superintendent, Divisional Jail, Ara and further for issuance of consequential writ in the nature of mandamus directing and commanding the respondent authorities to give all the consequential benefit resulting from quashing of the said orders and/or for issuance of any other writ/writs, order/orders, direction/directions which seem just and equitable in the facts and circumstances stated hereunder.”

2. The petitioner while working as Warder, he was subjected to disciplinary proceedings in framing five charges on 4.4.2010. The petitioner has denied the alleged charges and it was not satisfied by the disciplinary authority and proceeded to hold inquiry while appointing inquiring officer. The inquiring officer held that Charge Nos. 1 and 4 were proved, Charge Nos. 2 and 5 were proved in part and Charge No. 3 was not proved. Based on the inquiring officer's report, disciplinary authority issued second show cause noticed along with inquiring officer's report and



proceeded to impose the penalty of dismissal from service on 28.11.2014 and it was confirmed by the appellate authority on 03.07.2015. Hence the present petition.

3. Learned counsel for the petitioner submitted that charge memo is in violation of sub-Rule 4 of Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 . It is also submitted that Presenting Officer was appointed but he has not presented case on behalf of the department in inquiry. Inquiring authority has played dual role of Inquiring Officer and Presenting Officer. It is also submitted that the disciplinary authority appointed new Inquiring Officer during pendency of the inquiry proceedings and new Inquiring Officer has not submitted report. Even though second show cause notice along with inquiring officer's report is dated 21.12.2012, however, the inquiring officer's report was not made available to the petitioner.

4. *Per contra*, learned counsel for the respondents could not apprise the aforesaid contentions in support of the dismissal order and its confirmation by the appellate authority with reference to departmental inquiry records.

5. Perusal of the records made available by the petitioner, it is evident that there is violation of sub-Rule 4 of Rule 17 of Bihar



Government Servants (Classification, Control & Appeal) Rules, 2005. Inquiring officer's report has not been made available to the petitioner is not countered by the State respondents. There is no proper assistance from the State in apprising factual aspects of the matter, therefore, this Court is compelled to peruse the records made available by the petitioner.

6. Accordingly, petitioner has made out a case so as to interfere with the penalty order dated 28.11.2014 and its confirmation by the appellate authority on 03.07.2015 and they are set aside. Writ petition is allowed.

7. The concerned disciplinary authority is hereby directed to regulate the period from 28.11.2014 till passing of reinstatement order, since it is not a case of remand to disciplinary authority to hold inquiry afresh for the reasons department have not produced any records. Monetary benefits shall be calculated and disbursed in favour of the petitioner within a period of four months from the date of receipt of this order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	20.10.2022
Transmission Date	

