

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4600 of 2021

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Suresh Rai Son of Wazir Rai, Village-Rajapur, Police Station-Naygaun
District-Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Military Police, Patna.
4. The Deputy Inspector General of Police, Military Police, (Central Division), Patna.
5. The Commandant, Bihar Military Police, Patna.(B.M.P.)-16, Phulwari Sharif, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar, Advocate

For the Respondent/s : Mr. Dhurendra Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 02-02-2023 Heard learned counsel for the petitioner and the State.

Writ petition has been filed for quashing order contained in FO No.1227/07 dated 10.10.2007 (Annexure 1) issued by the Commandant BMP 16, Patna by which petitioner, who was working as constable in Bihar Police at the relevant time, has been punished with one black mark with stoppage/forfeiture of one increment permanently.

While assailing the impugned order of punishment, short submission made by learned counsel for the petitioner is that the Disciplinary Authority without giving any opportunity to the petitioner or even without serving a copy of the enquiry report to the petitioner passed final order of punishment which



is not only violative of the principles of natural justice but also the mandatory provision of the Disciplinary Rules as well as Rule 832 of the Police Manual. Reliance is placed on the decision of the Hon'ble Apex Court rendered in the case of **Punjab National Bank and others Vs. Kunj Bihari Mishra**, reported in **(1998) 7 SCC 84**.

Learned counsel for the State does not controvert the aforesaid facts.

On careful consideration of the rival submissions of the parties as also the legal precedent discussed above, this Court is of the view that the Disciplinary Authority has passed order of punishment in violation of law laid down by the Courts as well as disciplinary rules, as such, the impugned order of punishment dated 10.10.2007 is hereby set aside.

Since this Court has quashed impugned order only on the ground that petitioner was not given opportunity to explain his case before passing impugned order of punishment and its being in violation of the principle of natural justice, matter is remitted to the Disciplinary Authority from the stage of enquiry. Liberty is given to respondents to pass a fresh order after issuing second show cause along with a copy of enquiry report and on consideration of his reply thereof, within a period of two



months from the date of receipt of the 2nd show cause reply, as the petitioner has already retired from service.

Writ petition is accordingly allowed only to the extent indicated above.

Shashi

(Prabhat Kumar Singh, J)

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