

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2788 of 2020

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Puranjay Kumar son of Bigu Yadav, resident of village- Bhatkurha, P.O.-
Budhaul, P.s.- Guraru, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna
2. The Director General of Police, Bihar, Patna
3. The D.I.G. of Police, Military Police, Central Zone, Patna
4. The Commandant, B.M.P.-2, Dehri

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
For the Respondent/s : Mr. Md.N.H.Khan (SC-1)

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-09-2023 Heard Mr. Ram Hriday Prasad, learned Counsel for

the petitioner and Mr. Md. N.H. Khan, learned Standing

Counsel.

2. This application has been preferred for issuance of appropriate writ, order or direction to quash the order of Commandant, BMP-2, Dehri dated 17.07.2019 (Annexure-9) by which punishment of one black mark (withholding of increment for six months) was inflicted and order of D.I.G. of police, Military Police, Central Zone, Patna dated 06.11.2019 (Annexure-11) by which appeal of petitioner has been rejected and for grant of all consequential benefits.

3. It is the case of the petitioner that against the charges levelled against him, a departmental proceeding no. 33 of 2018 was taken up and culminated into the punishment of



withholding of increment for six months vide an order dated 17.07.2019 by the office of the Commandant, BMP-2, Dehri, Rohtas (Annexure-9 to the petition).

4. Learned Counsel for the petitioner submits that a perusal of the facts would show that the Inquiry Officer himself became the Presenting Officer which is impossible.

5. The petitioner thereafter took the appeal route and moved before the Appellate Authority. The Deputy Inspector General of Police, Military Police, Central Zone, Patna (now read as Bihar Special Armed Police) by which his appeal was rejected.

6. He submits that the appeal was rejected and communicated to him vide 3559 dated 23.11.2019 and a bare perusal of it would show that in a routine manner, the rejection order has been passed inasmuch as none of the points raised by him has been incorporated in the order.

7. Learned Standing Counsel-1 submits that considering the nature of charges against him, a proper departmental proceeding took place, whereafter, the order in question was passed. Further, the Appellate Authority also did not find any merit in appeal and as such the same was rejected.

8. However, to a query by the Court whether even one



of the 11 points raised by the petitioner was taken note by the Appellate Authority in his order, the reply is in negative.

9. This Court is convinced that the appellate order needs reconsideration. The authorities sitting in appeal must pass an order showing application of mind independent of what has been incorporated in the order of punishment. In absence of that, it will be deemed that the order has been passed in routine manner, suffers from infirmity and needs interference.

10. In that background, the appellate order communicated to the petitioner vide memo no. 3559 dated 23.11.2019 (Annexure-11 to the petition) is set aside.

11. The petitioner is directed to file fresh appeal with the order within a period of four weeks from today.

12. If such an appeal is preferred by the petitioner, the appellate authority shall pass a reasoned order taking into account the points raised by the petitioner in the fresh appeal at an earliest.

13. The writ petition stands disposed of.

(Rajiv Roy, J)

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