

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20904 of 2014

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Anjani Kumar Choubey, s/o late Shyam Sunder Choubey, r/o village-
Chaubeypur, PS-Dawath, District-Rohtas.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner-cum-Secretary, Home (Jail)
Department, Government of Bihar, Patna-15
2. The Inspector General of Prisons, Bihar, Patna-15
3. The Superintendent, Special Central Jail, Bhagalpur
4. The Superintendent, Sub Jail, Jamui

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Raj Bansh Dubey, Advocate
For the Respondent/s	:	Mr.Manish Kumar, AC to AAG 6 (Ex.) (In-charge AAG 5)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

2 10-08-2023 1. The present petition has been filed seeking the
following reliefs :-

“(i) For issuance of a writ in the nature of writ of certiorari for quashing the order no. 255 dated 26.09.2022, issued under the signature of respondent no. 3, the Superintendent, Special Central Jail, Bhagalpur, whereby the petitioner has been removed from the post of Jail Warden and pay of the petitioner has been withheld for his suspension period.

(ii) For quashing of Memo no. 28.07 dated 15.07.2003, issued under the signature of the respondent no. 2, the Additional Home Commissioner-cum-Inspector General of



Prisons, Bihar, whereby the appeal preferred by the petitioner has been rejected and also for a direction to respondents to pay the amount for the period of suspension. ”

2. At the outset, the learned counsel for the respondent- state has submitted that a writ petition was filed earlier by the petitioner, before this Court bearing C.W.J.C. no. 330 of 2004, challenging the order of punishment dated 26.09.2002, whereby and whereunder the petitioner had been removed from services, however, the same was dismissed by an order dated 14.02.2006, passed by a co-ordinate Bench of this Court, operative portion whereof, is reproduced herein below :-

“ The enquiry report itself mentions that on 09.05.2002, the enquiry was entrusted to Superintendent, Divisional Jail, Munger who is the enquiry officer and thereafter, the memo of charges including details of evidence mentioned against each of the charges was served upon the petitioner on 06.06.2002 with a clear direction that he should submit his show cause/ reply within a week. The period of one week is even indicated in the memo of charges dated 22.04.2002. Petitioner has not disclosed as to when he went to submit his show cause/ reply. Narration-B, paragraph no. 6 discloses



that it was done after enquiry report dated 05.07.2002 had been submitted. In such circumstances, this Court finds no merit in the grievances raised on behalf of the petitioner that principle of natural justice has been violated and he was not given sufficient opportunity to rebut the charges. The particular facts mentioned in the enquiry report have not been challenged by the petitioner that they are false or incorrect.

The impugned order shows that petitioner was given copy of enquiry report and also opportunity of filing of show cause, which he did not avail. While fixing the quantum of punishment, the authority considered his service record and that consideration indicates that his past conduct has also been quite chequered.

In the facts of the case, this Court finds that no good ground to interfere with the impugned order in exercise of writ jurisdiction. This writ petition is dismissed. ”

3. This Court finds that the present writ petition has been filed suppressing the aforesaid fact to the extent that the petitioner had earlier also challenged the order of punishment of removal from service, before this Court and a co-ordinate Bench of this Court, by an order dated 14.02.2006, had dismissed the



said writ petition, hence, the present writ petition is not maintainable, being barred by the principles of *Res-Judicata*, thus the same stands dismissed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.08.2023
Transmission Date	NA

