

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18697 of 2015

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Roop Rajan Hargave, Son of Late Digvijay Hargave, Resident of Vasant Vihar, Hirak Ring Road, P.O. Koylanagar, P.S. Saraidhela, District- Dhanbad Jharkhand, presently residing at Quarter No. C2/C.A.B., Board Colony, P.O. and P.S.- Shashtri Nagar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Home Department, Govt. of Bihar, Patna.
3. The Special Secretary, Home Police Department, Govt. of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Additional Director General of Police Modernization, Bihar, Patna.
6. The Deputy Inspector General of Police, Bhagalpur,
7. The Senior Superintendent of Police, Bhagalpur,
8. The Bihar Public Service Commission through the Secretary,

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Y. V. Giri, Sr. Advocate Mr. Rohit Kumar, Advocate Mr. Manish Kumar No. 13, Advocate Ms. Priti Kumari, Advocate
For the State	:	Mr. Ravi Bhardwaj, AC to GA-13
For the BPSC	:	Mr. Sanjay Pandey, Advocate Mr. Nishant Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 09-02-2023 This writ application has been filed for the following reliefs:-

1. For issuance of writ in the nature of Certiorari for quashing of Memo No. 2551 dated 10.04.2015 issued by the Special Secretary, Home (Police) Department, Bihar, Patna whereby the petitioner has been awarded with the punishment of withholding of two increments with cumulative effect.



2. For issuance of writ in the nature of Certiorari for quashing of the Enquiry Report dated 10.03.2014 prepared by the Conducting Officer-Cum-Additional Director General of Police (Modernization) whereby the charges have been proved against the petitioner in arbitrary manner without examination of the facts and issues raised by the petitioner.

Brief facts of the case are that petitioner while he working as Deputy Superintendent of Police (Town), Bhagalpur was subjected to departmental proceeding vide issuance of article of charges, annexed as Annexure-11 to the writ application, which concluded in the order of punishment whereby punishment of withholding two increments was passed.

Several grounds have been raised on behalf of the petitioner to assail the order of punishment (Annexure-21). One of the grounds is to the effect that order of punishment is non-speaking, mechanical and bereft of reasons which is in violation of principle of natural justice. He submits that order imposing punishment does not disclose at all any application of mind as to why the explanation submitted by the petitioner was not found satisfactory. It is mandatory for the disciplinary authority to deal with the explanation filed by the delinquent while exercising power under Rule 19 of Bihar CCA Rules, 2005. Non-



compliance of it will result into violation of principle of natural justice and breach of statutory provision itself. In this connection, he places reliance upon **2014 (1) PLJR 532 (Shekhar Chandra Verma v. State of Bihar and Ors)**.

On the other hand, the learned counsel for the State referring to the averments made in the counter affidavit submits that after consideration of the materials available on record including the show-cause, order of punishment has been passed and as such, needs no reference by this Court. However, he is unable to controvert the ground raised by the petitioner.

From bare perusal of the order, it is apparent that none of the grounds taken by the petitioner was considered by the disciplinary authority while passing the order of punishment. It is mandatory for the disciplinary authority to deal with the pleas taken by the petitioner in defence. Non-consideration of the show-cause explanation resulted in violation of principle of natural justice as well as statutory provisions.

Accordingly, impugned order contained in Memo No. 2551 dated 10.04.2015 and Enquiry Report dated 10.03.2014 is quashed and set aside with all consequential benefits to the petitioner. As the impugned order is quashed on the ground of procedural lapses, respondents are at liberty to proceed afresh



against the petitioner from the stage of second show cause notice, if so advised.

(Prabhat Kumar Singh, J)

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