

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16208 of 2012

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Shambhu Shankar Thakur S/o Sri Parmanand Thakur Resident of 15 BSIDC Colony, Rameshwar Dayal Path, Boring Road, P.S- S.K. Puri, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Special Secretary, Deptt. of Home, Government of Bihar, Patna.
3. The Director General of Police, State of Bihar, Patna.
4. The Inspector General of Police, Darbhanga Zone, Patna.

... .. Respondent/s

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Appearance :

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

For the Respondent/s : None

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

Date : 19-10-2023

None appears for the respondent-State. Matter is pending consideration from the year 2012.

2. In the instant petition, petitioner has prayed for the following reliefs:-

"For issuance of certiorari quashing the resolution of the Govt. of Bihar Home (Police) department dated 27.12.2011 issued under the signature of Spl. Secretary to the Government contained in memo No. 9302 dated 27.12.2011 whereby and whereunder the 20% pension of petitioner has been ordered to be deducted as punishment and further for issuance of a writ of mandamus directing respondents to pay the petitioner the amount which has been deducted as punishment with interest admissible thereon. And/or pass such other order/orders as Your Lordship may deem fit and proper."



3. Petitioner was initially appointed as Sub-Inspector of police on 16.01.1972. He was granted promotion to the rank of Deputy Superintendent of Police. While working as Deputy Superintendent of Police, he was subjected to disciplinary proceedings on 12.01.2007, in framing of article of charges. Thereafter, it was proceeded on receipt of petitioner's explanation and it was not satisfied by the Disciplinary Authority. During pendency of the departmental inquiry petitioner has attained his age of superannuation and retired from service on 28.02.2011. In the result, the State Government has taken over the inquiry matter. The inquiring officer Inspector General of Police, Darbhanga Division, Darbhanga, furnished an inquiry report to the extent that the alleged charges leveled against the petitioner were not proved. In other words, petitioner has been exonerated. On receipt of the Inquiring Officer's report Disciplinary Authority-State Government proceeded to issue show cause notice on 30.05.2011 asking the petitioner's reply. Petitioner had submitted reply on 11.07.2007, thereafter, the State Government proceeded to impose the penalty of withholding of 20% pension on permanent basis on 27.12.2011, hence, the present petition.



4. Learned counsel for the petitioner submitted that the alleged charges leveled against the petitioner were not proved in the departmental inquiry. If the disciplinary authority intends to disagree with the inquiring officer's report it was bounden duty of the disciplinary authority either to remand the matter to the inquiring officer on certain issues for which he was required to furnish reasons or in the alternative disciplinary authority is also permitted to issue a detailed show cause notice to what extent and in what manner disciplinary authority is not accepting the inquiring officer's report. If there are discrepancies in the inquiring officer's report that should be highlighted in the show cause notice in seeking petitioner's explanation.

5. The above procedure has not been complied as is evident from Annexure -5 dated 30.05.2011. On this point, petitioner has made out a case. Accordingly, the impugned punishment order dated 27.12.2011 (Annexure-7) stands set aside and the matter is remanded to the disciplinary authority to proceed afresh by giving a detailed show cause notice. If the disciplinary authority is disagreeing with the inquiring officer's report, disciplinary authority has to assign the proper reasons in respect of particular evidence or document relied by inquiring officer is contrary material information which is available on record, if he is



disagreeing with such material information he is permitted to issue a detailed show cause notice, thereafter, proceed to pass a detailed speaking order. While passing detailed speaking order disciplinary authority is hereby directed to take note of each of the contention to be raised by the petitioner against afresh show cause notice to be issued by the disciplinary authority. If the disciplinary authority finds that there are no material to prove the charges leveled against the petitioner like documentary evidence or any corroborative evidence which are part and parcel of the inquiring proceedings, in that event, there is no question of disagreeing with inquiring officer's report this may also be taken note of before proceeding further. The above exercise shall be completed within a period of three months from the date of receipt of this order. The petitioner is hereby directed to co-operate in furnishing his reply to the show cause notice, if any, so also on the inquiring officer's finding.

6. With the aforesaid observations, the present writ petition stands allowed.

Vikash/-

(P. B. Bajanthri, J)

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

