

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4956 of 2017

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Roop Ranjan 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 Deputy Secretary, Home Police Department, Govt. of Bihar, Patna.
5. The Director General of Police, Bihar, Patna.
6. The Additional Director General of Police, C.I.D., Bihar, Patna.
7. The Deputy Inspector General of Police, Bhagalpur.
8. The Senior Superintendent of Police, Bhagalpur.

... .. 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 BPSC	:	Mr.Sanjay Pandey, Advocate Mr.Nishant Kumar Jha, Advocate
For the Respondent/s	:	Mr.Prabhat Kr. Verma-AAG-3 Mr.Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 09-02-2023

This writ application has been filed for following

reliefs:-

(i) for issuance of writ in the nature of certiorari for quashing of Memo No. 9446 dated 02.12.2016 issued by the Deputy Secretary, Home (Police) Department, Bihar, Patna whereby the petitioner has been awarded with the punishment of withholding of three increments with cumulative effect.



(ii) for issuance of writ in the nature of certiorari for quashing of the Enquiry Report dated 25.07.2014 prepared by the Conducting Officer-cum-Additional Director General of Police, Crime Investigation Department, Bihar, Patna whereby the charges have been proved against the petitioner in an arbitrary manner without examination of the facts and issues raised by the petitioner.

(iii) for issuance of writ in the nature of certiorari for quashing of Memo No. 843 dated 06.02.2013 issued by the Special Secretary, Home (Police) Department, Bihar, Patna whereby the memo of charge has been framed against the petitioner.

(iv) for holding that the petitioner has been wrongly awarded with the punishment, while there was nothing in the conduct of the petitioner warranting punishment.

(v) for any other relief which this court may deem fit and proper.

IA No. 01 of 2021

During pendency of this case IA No. 01 of 2021 has been filed for amendment in the prayer of writ petition whereby petitioner sought quashing of Memo No. M-70-14/2012 Gri.Aa. 2522/Patna dated 27.03.2017 issued by the Deputy Secretary, Home (Police) Department, Bihar, Patna (Annexure-17) whereby and whereunder the Memorial (Appeal) filed by the petitioner was



dismissed.

In view of aforesaid fact, the IA No. 01 of 2021 stands allowed.

The brief facts of this case are that while the petitioner was posted as Deputy Superintendent of Police Bhagalpur (Town) he was subjected to departmental proceeding by issuing the memo of charge as contained in Annexure-9 dated 06.02.2013 which culminated into the order of punishment of withholding of three increments with cumulative effect.

Amongst the several grounds raised on behalf of petitioner to challenge the impugned order as well as appellate order, one of the grounds raised by petitioner is to the effect that impugned order has been passed without considering the reply to the show-cause filed by the petitioner. He further submits that order is non-speaking, mechanical and bereft of reasons. He next submits that impugned order is not in consonance with Rule 18 of the Bihar Government Servants (Classification Control and Appeal) Rules, 2005.

On the other hand in the counter affidavit filed on behalf of respondents he made averments that order of punishment has been passed after following the due process of law and taking into account the entire materials including the



show-cause filed by the petitioner. He further submits that reply of the petitioner has been duly considered and it was found that reply of the petitioner was unsatisfactory and as such, the writ petition is devoid of merit and is fit to be quashed.

From perusal of the impugned order it appears that the disciplinary authority has found the reply to the show-cause filed by the petitioner unsatisfactory, but no reason has been assigned as to why the reply filed by the petitioner was found unsatisfactory. In the present case no reason has been disclosed while inflicting punishment as to why and on what grounds the facts mentioned by the petitioner in his representation were rejected. It is mandatory for disciplinary authority to deal with the explanation filed by the delinquent.

Considering the rival submission of the parties and materials available on record, order dated 02.12.2016 bearing Memo no. 9446 issued by the Deputy Secretary, Home (Police) Department, Bihar Patna, enquiry report dated 25.07.2014 prepared by the conducting officer-cum-Additional Director General of Police, Crime Investigation Department, Bihar, Patna, memo no. 843 dated 06.02.2013 issued by the Special Secretary, Home (Police) Department, Bihar, Patna whereby the memo of charge has been framed against the petitioner are



hereby quashed with all consequential benefits.

Needless to say, the respondents shall be at liberty to proceed against the petitioner from the stage of second show-cause, if so advised.

Accordingly, this writ application stands allowed.

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.02.2023
Transmission Date	15.02.2023

