

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1284 of 2019

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Nikhil Kumar @ Nikhil Nirbhay Narayan Chandra R/o Diara Bishunpur, P.S.-
Bishunpur (Deohri), District- Durnia at present SHO, P.S.- Makhdumpur,
District- Jahanabad

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary of Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Patna Zone, Patna
4. The Deputy Inspector General of Police, Central Range, Patna
5. The Senior Superintendent of Police, Patna
6. The Chairman, Bihar Public Service Commission, Patna, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kamal Nayan Chaubey, Sr. Adv. Mr. Binay Kumar Singh, Adv.
For the State	:	Mr. Vinay Kirti Singh (GA-2) Mr. Sumant Kumar Singh (AC to GA-2)
For the BPSC	:	Mr. Sanjay Pandit, Adv. Mr. Nishant Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 26-02-2024 Heard learned counsel for the petitioner, learned

counsel for the State and learned counsel for the Bihar Public

Service Commission.

2. The present writ petition has been filed for
quashing the order contained in Memo No.3715 dated
10.12.2018 (annexed as Annexure-7), whereas, the Appellate
Authority has rejected the appeal of the petitioner and further
for quashing the punishment order contained in Memo No.296
dated 11.10.2018 (annexed as Annexure-5) passed by



respondent no.4 (Deputy Inspector General of Police, Central Range, Patna) by which the punishment of withholding two annual increments has been awarded to the petitioner with cumulative effect. Further prayer has also been made for quashing the enquiry report dated 20.01.2018 (annexed as Annexure-4) in which the petitioner was found guilty of false charges which is in complete violation of Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005').

3. Learned counsel for the petitioner submits that the petitioner was working as Station House Officer, Gandhi Maidan Police Station, Patna where he served from 28.07.2015 to 11.10.2016. It has been mentioned that on 26.04.2016, the petitioner alongwith other police officials under the leadership of Deputy Superintendent of Police, Town, Patna conducted raid on Hotel Panache and during the raid, seven persons were found to be taking alcohol in a room of the Hotel. Subsequently, accused persons were arrested, the seizure was made and FIR was lodged. Counsel further submits that officials have found that there are loopholes in the investigation and therefore, this matter was recommended for disciplinary proceeding against the Investigating Officer (the petitioner). On the basis of the



recommendation made by the DIG, Headquarter *vide* Memo No.124 dated 04.10.2016, a show cause was asked from the petitioner *vide* Memo No. 6348 dated 09.10.2016 and the said letter was communicated to the petitioner *vide* Memo No. 15070 dated 03.11.2016. The petitioner has received the said show cause letter on 03.11.2016 and in the meantime, the departmental proceeding initiated against the petitioner *vide* Memo No.224 dated 11.11.2016. Counsel further submits that no show cause explanation has been submitted by the petitioner due to the reason that show cause letter itself was received by him on 19.01.2016.

4. Learned counsel for the petitioner submits that city S.P. (West), Patna was appointed as Conducting Officer in this case and the written statement was demanded by the Conducting Officer from the petitioner and the petitioner has submitted his explanation refuting the charges and annexed the relevant documents. Counsel further submits that from the proceeding conducted by the Enquiry Officer, it is crystal clear that Presenting Officer has not been appointed and in the absence of Presenting Officer, the entire enquiry was conducted and the charges were found to be proved against the petitioner on the basis of which he has been punished and upon challenge the



said order in appeal, the appeal was dismissed.

5. Learned counsel for the State on the other hand submits that every opportunity has been granted to the petitioner and the City S.P. (West), Patna at the level of I.P.S. rank Police Officer has been appointed as Conducting Officer and the Conducting Officer conducted proper enquiry on all points on the basis of the facts revealed during departmental enquiry, found the petitioner to be guilty. Counsel further submits that the disciplinary authority i.e. the D.I.G. (Central Range), Patna after full consideration has passed the punishment order for forfeiture of increments for two years which is equivalent of 3 Black marks and when this order has been challenged before Zonal I.G. of Police, Patna, in an appeal, the said order has been affirmed.

6. After going through the pleadings and hearing the parties, it transpires to this Court that the said departmental proceeding has been conducted without appointing any Presenting Officer and the Conducting Officer himself assumed the work of Presenting Officer and reached on the conclusion. The said methodology is in gross violation of Rule 17(5)(c) of the CCA Rules, 2005 as well as in the light of judgment of Hon'ble Division Bench in case of *Upendra Pandit Vs. The*



***State of Bihar through the Chief Secretary & Ors. passed in
L.P.A. No.507 of 2017 reported in 2023(4) PLJR 568.***

7. As such, this Court is hereby set aside the order contained in Memo No.3715 dated 10.12.2018 (annexed as Annexure-7); punishment order contained in Memo No.296 dated 11.10.2018 (annexed as Annexure-5) and enquiry report dated 20.01.2018 (annexed as Annexure-4).

8. Liberty is hereby granted to the respondents that they may proceed further in accordance with law. But, in case, the respondents decide to proceed further, then the said proceeding shall be concluded within three months from the date of production of the order.

9. With the aforesaid observations, this writ petition is hereby allowed.

(Dr. Anshuman, J.)

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