

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3536 of 2020

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Ranjeet Kumar, S/o Shiv Parsann Singh @ Shiv Darshan Singh, R/o Village-
Lai, Patut, P.S.- Bihta, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Dy. Inspector General of Police Tirhut Range, Muzaffarpur.
3. The Superintendent of Police, Sheohar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani, Adv.
For the Respondent/s : Mr. Md. N.H. Khan (SC-1)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 04-01-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed by the
petitioner for quashing the order of Deputy Inspector General of
Police, Tirhut Range, Muzaffarpur, issued *vide* memo No. 2670
dated 30.09.2019 annexed as Annexure-9 and also for quashing
the order no. 121/2019 communicated through memo no. 296
dated 13.02.2019 annexed as Annexure-6 passed by the
Superintendent of Police, Sheohar by which the petitioner has
been dismissed from the service.

3. Learned counsel for the petitioner submits that the
petitioner was PTC (Constable) in Sheohar Police Force and
during his posting at Sheohar, FIR has been lodged against the
petitioner on 04.10.2018 bearing Sheohar P.S. Case No. 226 of



2018 under section 37(A) and 37(C) of Bihar Prohibition of Excise Act, 2016 upon information of S.H.O., Sheohar. Counsel also submits that the petitioner was taken into custody and a show cause has been asked from him on 09.10.2018 by the Superintendent of Police, Sheohar as to why a departmental enquiry be not initiated against the petitioner. Counsel further submits that *vide* Memo no. 1418 dated 14.10.2018 annexed as Annexure-1/4 issued by the Superintendent of Police, Sheohar issued the charge memo along with the appointment of Enquiry Officer and Presenting Officer along with the documents mentioned therein. Counsel specifically pleaded that no show cause has been asked with respect to the charge memo from him.

4. Learned counsel for the petitioner submits that the enquiry was conducted bearing departmental enquiry no. 17 of 2018 in which witnesses were examined and the documents were exhibited and enquiry report was submitted *vide* Memo no. 1591 dated 20.11.2018 annexed as Annexure-2. Counsel also submits that without reaching on the findings with respect to the charge, the petitioner was found guilty by the Enquiry Officer and the charge has been told to be proved against him. Thereafter, a second show cause notice issued *vide* Memo No.



1685 dated 23.11.2018 annexed as Annexure-3 and the petitioner has submitted his second show cause and informed that he was a victim of conspiracy, but even then none of his points were considered and he was proposed punishment of dismissal by letter dated 08.12.2018 annexed as Annexure-5 and the final order passed on 13.02.2019. Counsel also submits that thereafter, the petitioner has preferred appeal before the D.I.G., Muzaffarpur and when no order was passed, then the petitioner preferred writ petition before this Hon'ble Court in CWJC No. 14899 of 2019 annexed as Annexure-8 which was disposed of *vide* order dated 26.07.2019 directing the D.I.G., Tirhut Range, Muzaffarpur (respondent no.2) to consider the appeal within a period of three months from the date of receipt/production of the order.

5. Learned counsel for the petitioner further submits that in the appeal, the Appellate Authority has dismissed the appeal and communicated to him through Memo No. 2670 dated 30.09.2019 and thereafter, the petitioner has filed the present writ petition. Counsel for the petitioner seeks judicial review of the orders primarily on two grounds by which he want to show that there is procedural lapse in the departmental proceeding. Counsel also submits that the disciplinary proceeding of the



petitioner is guided by the Bihar Police Manual as well as by the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as “CCA Rules, 2005”). Counsel further submits that there is a gross violation of Rule 17(4) and Rule 17(23) of the CCA Rules, 2005 in case of the petitioner. Counsel also submits that the contention of the Rule 17(4) of CCA Rules, 2005 is that the disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires to be heard in person. Counsel submits that such written statement of his defence has not been demanded from him. Rule 17(23) of CCA Rules, 2005 has also been violated due to the reason that assessment of the evidence in respect of each article of charge and finding of each article of charge with the respective reasons were also not made in the enquiry report and therefore, any further action on the basis of the said defective procedure shall not sustain in the eye of law.



6. Learned counsel for the State on the other hand submits that the petitioner has no case at all due to the reason that he want judicial review of a departmental proceeding where there is no procedural lapse and a proportionate order has been passed. Counsel also submits that show cause notice has already been issued to him and he also submits that in the enquiry proceeding, the charge alleged has been proved by the Enquiry Officer and therefore, there is no need of any interference. Counsel for the State makes alternative prayer that in case, this Court finds that there is any procedural lapse, then further opportunity to the State may be granted so that the action may continue against the delinquent.

7. With a view to decide this matter, it is necessary to quote Rule 17(4) and Rule 17(23) of the CCA Rules, 2005 which states as under:-

“Rule 17(4) states as follows:-

The disciplinary authority shall deliver or cause to be delivered to the Government Servant a copy of the articles of charge, such statement of the imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained and shall require the Government Servant to submit, within such time as may be specified, a written statement of his defence and to state whether he desires



to be heard in person.

Rule 17(23) states as follows:-

Rule 17(23)(i) After the conclusion of the inquiry, a record shall be prepared and it shall contain:-

(a) the articles of charge and the statement of the imputations of misconduct or misbehaviour;

(b) the defence of the Government Servant in respect of each article of charge.

(c) an assessment of the evidence in respect of each article of charge,

(d) the findings on each article of charge and the reasons thereof.

Explanation. - *If in the opinion of the inquiring authority the proceedings of the inquiry may establish any article of charge different from the original articles of the charge, he may record his findings on such article of charge:*

Provided that the findings on such article of charge shall not be recorded unless the Government Servant has either admitted the facts on which such article of charge is based or has had a reasonable opportunity of defending himself against such article of charge.

Rule 17(23)(ii) The inquiring authority, where it is not itself the disciplinary authority, shall forward to the disciplinary authority the records of inquiry which shall include-

(a) the report prepared by it under clause (i) of this sub rule;



(b) the written statement of defence, if any, submitted by the Government Servant;

(c) the oral and documentary evidence produced in the course of the inquiry;

(d) written briefs, if any, filed by the Presenting Officer or the Government Servant or both during the course of the inquiry; and

(e) the orders, if any, made by the disciplinary authority and the inquiring authority in regard to the inquiry.”

8. Upon perusal of the documents and hearing the parties, it transpires to this Court that the charge memo has been issued to the petitioner on 14.10.2018 whereas, show cause was issued to the petitioner *vide* Memo no. 1769 dated 09.10.2018 annexed as Annexure-1 and upon perusal of this annexure, it transpires that the said show cause have been issued prior to issuance of charge memo and the contents of Rule 17(4) of the CCA Rules, 2005 categorically states that the written statement of his defence has to be demanded with a copy of article of charge which is lacking in the present case.

9. Upon perusal of Memo of charge, the indication of show cause dated 09.10.2018 has been mentioned in the charge memo prior to issuance of charge memo on 14.10.2018, but written statement not demanded which is not the correct



procedure in the view of the Court. Similarly in the enquiry report which is Annexure-2, there is no specific finding of each charge. As such, these are the procedural lapses existed in the proceeding and hence, this Court has no option but to set aside the order of Deputy Inspector General of Police, Tirhut Range, Muzaffarpur, issued *vide* memo No. 2670 dated 30.09.2019 annexed as Annexure-9 and also set aside the order no. 121/2019 communicated through memo no. 296 dated 13.02.2019 annexed as Annexure-6 passed by the Superintendent of Police, Sheohar, but liberty is hereby given to the State that he may proceed from the stage of charge memo in accordance with law afresh and conclude the enquiry within 9 months from the date of production of the order.

10. Respondents are directed to accept the joining of the petitioner and after receiving the joining, they are free to take action in accordance with CCA Rules, 2005.

11. With the above observations and directions, this writ petition is hereby allowed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	
Uploading Date	06.01.2024
Transmission Date	

