

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18875 of 2015

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Fredrick Juliues David, S/o- Julius David, R/o Mohalla- Kurjee Balu par,
Near Bank colony, P.s- Digha, Dist- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary Home, Government of Bihar, Patna.
3. The Additional Secretary cum Director Administration department of Jail,
Government of Bihar, Patna.
4. The Inspector General of Prison (Jail), Govt. of Bihar, Patna
5. The District Magistrate, Hazipur, Vaishali
6. The Jail Superintendent, Hazipur, Vaishali
7. Sri Rupak Kumar, Superintendent Central Jail Motihari cum conducting
officer, Motihari, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Kamaluddin, Advocate
For the Respondent/s : Mr. Shiv Kumar, AC to GA 3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-01-2024

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. This writ petition has been filed for the following
reliefs:-

*A) To issue an appropriate writ/writs, order or
direction for quashing the appellate order dated
11.08.2015 passed by Respondent Principal Secretary
Home, where by and where under the well founded
service appeal of the petitioner has been rejected on
wholly erroneous grounds without looking in to the
facts and circumstances of the case and without
considering case of the petitioner as also ignoring the
materials available on record.*

*(B) To issue further appropriate writ, order or direction
also for quashing the order passed by Inspector
general of Prison (Jail), under memo no-3327 dated*



5.6.2015 whereby and where under the petitioner has been given punishment of sensor with withholding of two increment with cumulative effect, apart from a punishment of only payment of subsistence allowance during the suspension period.

C) To issue further direction not to implement the appellate order dated 11.08.2015 passed by Respondent Principal Secretary Home, as also the order passed by Inspector general of Prison (Jail), under memo no-3327 dated 05.06.2015 and also not to take any punitive action against the petitioner in pursuance to the said order.

(D) This Hon'ble court may adjudicate and hold that petitioner cannot be punished for any action not done by his superior authority. This court further adjudicates and holds that the actions of respondents are malafide/ bad in law.

(E) To award the cost of litigation and suitable compensation for losses and damages caused to the petitioner because of arbitrary decision of respondents.

(F) To award any other relief/reliefs to the petitioner for which he is found entitled in the facts and circumstances of the case.

3. The petitioner was appointed as a clerk in 1965 in Munger and after working at different places he was given promotion in 2008 in the rank of Deputy Superintendent. When the petitioner was posted as Deputy Superintendent Mandal Kara Hajipur, there was an incident of marpit between prisoner Gudu Khan and Ajay, Kamal Rai and Pinku Choudhary in which Gudu Khan has sustained some injuries for which an enquiry was conducted by the Superintendent Inspector General of Prison (Jail) through Superintendent Beur Central. After enquiry the Superintendent of Beur jail has submitted his report on



26.09.2014 to the Inspector General of Prison (jail) Government of Bihar in which nothing adverse was reported against the petitioner and the Inspector General Prison (jail) as recommended that the petitioner should be transferred from Hajipur to any other place.

4. Learned counsel for the petitioner further submits thereafter the petitioner was suspended on 29.09.2014 and he was attached with Central Jail Buxar. On 05.11.2014 the Superintendent Central Jail, Motihari issued memo no. 4841 dated 25.11.2014 and called for an explanation from the petitioner. Thereafter, vide memo no. 5300 dated 19.11.2014 a departmental proceeding was initiated against the petitioner and the Superintendent Motihari Central Jail was appointed as conducting officer and Superintendent Hazipur Jail was appointed as presiding officer and charge memo was served upon the petitioner. Thereafter, the Superintendent Moithari Central Jail vide memo no. 4841 dated 25.1.2014 sought an explanation from the petitioner with respect to charges. Accordingly, the petitioner has submitted explanation to Superintendent Motihari Central Jail cum conducting officer on 17.12.2014 stating in his explanation that the petitioner was not available on place of occurrence when the occurrence took place



and when he reached there then all the person fled away from the place of occurrence, so there was no question of using alarm in jail as under Rule 493 of jail manual, employee must pull the bell and the petitioner had participated in the enquiry. He further submits that the conducting officer after enquiry submitted his report on 05.02.2015 and he has found the charges against the petitioner are partially proved. On the basis of the report submitted by the conducting officer, second show cause notice was issued by respondent no. 3 on 27.03.2015 to the petitioner holding that the charges are found proved against him and why penal order has not been issued against the petitioner for proved charges under the provisions of Bihar CCA Rule, 2005. Pursuant to the aforesaid the petitioner has submitted his explanation with regard to the second show cause on 27.03.2015 explaining the actual position as also requesting to exonerate the petitioner from the charges. The reply to show cause filed by the petitioner was not considered by the respondent and without consideration of the show cause filed by the petitioner, respondent Inspector General Prison (jail) had passed an order as contained memo no. 2237 dated 05.06.2015 and punished the petitioner with punishment of censure and stoppage of two increments with cumulative effect apart from payment of



subsistence allowance during suspension period. Thereafter, the petitioner has challenge the order dated 05.06.2015 and filed an appeal before the Principal Secretary on 02.07.2015. The respondent Principal Secretary without giving his own opinion has rejected the appeal of the petitioner against the punishment given by the Inspector General Prison (jail).

5. Learned council for the petitioner further submits that from bare perusal of the aforesaid, it appears that the authorities without considering the reply of the petitioner has passed the impugned order. So the order passed by the respondent authority namely, Inspector General Central Jail and Principal Secretary (Home) is bad in law and the same may be set aside.

6. Learned counsel for the State submits that there is no infirmity in the order impugned and it appears that the proceedings has been conducted in accordance with rule/law and the petitioner has submitted is explanation with regard to the second show cause dated 27.03.2015 and after perusing all the documents and after considering the explanation submitted by the petitioner, I.G. Prison passed the punishment order vide memo no. 3327 dated 05.06.2015 as under:-

(i) Censure



- (ii) Withholding two increments with cumulative effect
- (iii) nothing will be payable except subsistence allowance during suspension period, but this period will be counted as service for pension purpose.

7. Accordingly the petitioner has approached before the Principal Secretary, preferred service appeal but the service appeal of the petitioner was rejected and affirmed the punishment order pass by the I.G. Prison.

8. Learned counsel for the State further submit that the order passed by the I.G. Prison as well as Principal Secretary (Home) are well reasoned order based on the material facts available on record and after giving due opportunity to the petitioner and after following the principle of natural justice as well as rules.

9. In view of the aforesaid, there is no infirmity in the impugned orders, no interference warranted.

10. Accordingly, this writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

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

