

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 14339 of 2022

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Anjani Kumar Singh son of Sri Lalan Prasad Singh, Resident of - New Area,
Dalmia Nagar, P.S.- Dehri On Sone, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General of Police, Headquarter, Bihar, Patna.
4. The Deputy Inspector General of Police, Personnel, Bihar, Patna.
5. The Inspector General of Police, Tirhut Range, Muzaffarpur.
6. The Inspector General of Police (Excise and Prohibition), Bihar, Patna.
7. The Superintendent of Police, Vaishali at Hajipur.
8. The Enquiry Authority -Cum-Superintendent of Police City, Muzaffarpur.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Vinay Ranjan
Mr. Abhishek Teerthankar, Advocate
Mr. Ankit Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar (GP- 4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 08-01-2024

The present writ petition has been filed for quashing of the order dated 24.08.2022, passed by the Director General of Police, Bihar, Patna, whereby and whereunder the order of punishment dated 28.05.2021, passed by the Inspector General of Police, Tirhut Range, Muzaffarpur has been annulled and



enhanced punishment has been inflicted upon the petitioner to the effect that he has been demoted in the basic pay of Sub-Inspector of police for five years with cumulative effect, apart from it being directed that the petitioner would not be posted as Officer-in-charge of any police station for ten years and nothing would be payable for the period of suspension, except the amount already paid to him.

2. The brief facts of the case, according to the petitioner, are that the petitioner was inducted in police service in the year 2007 as a Sub-Inspector of Police and while he was discharging his service to the satisfaction of all concerned, he was promoted to the post of Inspector and posted as SHO, Town Police Station, Hajipur. In the month of August, 2020, the petitioner was placed under suspension, upon a direction issued by the Inspector General of Police (Prohibition), Prohibition Department, Bihar Police Headquarter, vide letter dated 20.08.2020.

3. Thereafter, a departmental proceeding was initiated against the petitioner vide letter dated 28.10.2020 and charges were framed in Prapatra-‘Ka’, inter alia alleging therein that on 11.06.2020, the Anti Liquor Task Force (herein after referred to as the “ALTF”) had conducted a raid at the house of one



Subhash Singh, falling under the jurisdiction of the police station, of which the petitioner was SHO at that moment of time and 129.5 liters illicit foreign liquor was recovered, leading to lodging of Vaishali Town P.S. Case No. 373 of 2020, apart from recovery of 5610.78 liters illicit foreign liquor from a godown belonging to one Ganesh Rai, upon a raid having been conducted on 06.06.2020, leading to lodging of Vaishali Town P.S. Case No. 364 of 2020, which depicts negligence and gross dereliction in duty on the part of the petitioner, inasmuch as the said places, from where illicit liquor was recovered, are situated merely one km. away from the Hajipur Town Police Station.

4. The enquiry officer had then conducted an enquiry and submitted his enquiry report dated 18.01.2021, finding that the past record of the petitioner had been impeccable, he had been granted bravery award and had also recovered thousands of liters of illicit liquor, during the course of his posting at Hajipur Town Police Station, apart from him having lodged about 102 FIRs against the persons indulging in drinking and illicit trade of liquor, leading to 153 accused persons having been sent to judicial custody. The enquiry officer had also found that there is no evidence so as to indict the petitioner qua the charges levelled against him, hence the petitioner was exonerated of all



the charges levelled against him.

5. It is submitted by the learned counsel for the petitioner that without issuing any second show-cause notice, mentioning the reasons for differing with the findings of the enquiry officer, the disciplinary authority had straightway passed the order of punishment dated 28.05.2021, inflicting punishment of stoppage of annual increment for one year without cumulative effect. It is further submitted that suddenly, the Deputy Inspector General of Police (Personnel), Bihar Police Headquarter, Personnel and Welfare Department, Patna had issued a notice to the petitioner dated 01.06.2022, inter alia stating therein that since huge quantity of illicit liquor was recovered upon raid having been conducted by the ALTF from a house/godown, falling within the jurisdiction of the police station at which the petitioner was posted as Officer-in-charge, the same depicts gross negligence and dereliction in discharge of duties, on the part of the petitioner, hence the petitioner was directed to file his show-cause reply as to why the punishment awarded by the disciplinary authority vide order dated 28.05.2021 be not enhanced by exercising powers conferred under Rule 853-A of the Bihar Police Manual. The petitioner had then submitted a detailed show-cause reply dated 15.06.2022, however, without



considering the same, the Director General of Police has passed the impugned order dated 24.08.2022.

6. It is the submission of the Ld. counsel for the petitioner that neither the disciplinary authority, i.e. the Inspector General of Police, Tirhut Range, Muzaffapur while passing the order of punishment dated 28.05.2021 nor the revisional authority, i.e. the Director General of Police, Bihar Patna, while enhancing punishment, by the impugned order dated 24.08.2022, have given any opportunity to the petitioner to put forth his defence with regard to the grounds/reasons for disagreement of the disciplinary authority / Director General of Police, Bihar Patna with the opinion of the enquiry officer, as recorded in his enquiry report dated 18.01.2021, resulting in breach of the principles of natural justice, leading to the orders of punishment impugned herein, being vitiated in the eyes of law.

7. *Per contra*, though the learned counsel for the respondent-State has opposed the present writ petition and refuted the arguments advanced by the learned counsel for the petitioner, but it has been admitted that no second show-cause notice, much less any notice recording the reasons for differing with the opinion of the enquiry officer was issued to the petitioner either by the disciplinary authority or by the Director



General of Police, Bihar Patna so as to grant an opportunity to the petitioner to put forth his defence and prove his innocence.

8. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that admittedly, neither any show-cause notice, differing with the opinion of the enquiry officer was served upon the petitioner, prior to passing of the order of punishment dated 28.05.2021 nor any show-cause notice mentioning the reasons for differing with the opinion of the enquiry officer was served upon the petitioner, prior to enhancement of punishment by the Director General of Police, Bihar, Patna, vide order dated 24.08.2022, inasmuch as the show-cause notice dated 31.05.2022, issued vide Memo dated 01.06.2022, by the Deputy Inspector General of Police, (Personnel), Bihar Patna, merely records the allegations levelled against the petitioner in Prapatra-‘Ka’, however the same does not state any reason for differing with the findings of the enquiry officer, thus admittedly, the petitioner has been precluded from grant of a reasonable opportunity to put forth his defense and prove his innocence qua the reasons which might have weighed in the mind of the Director General of Police, Patna to differ with the findings of the enquiry officer so as to warrant enhancement of punishment inflicted upon the



petitioner by the Inspector General of Police, Tirhut Range, resulting in not only breach of the principles of natural justice, but also violation of the provisions contained under Article 311(2) of the Constitution of India, hence the order dated 24.08.2022, passed by the Director General of Police, Bihar, Patna stands vitiated in the eyes of law. Reference in this connection be had to a judgment rendered by the Constitution Bench of the Hon'ble Apex Court in the case of ***Managing Director, ECIL, Hyderabad vs. B. Karunakar & Ors***, reported in ***(1993) 4 SCC 727*** as also to a judgment rendered by the Hon'ble Apex Court in the case of ***Union of India vs. Mohd. Ramzan Khan***, reported in ***(1991) 1 SCC 588***.

9. At this juncture, it may be relevant to state that Rule 3 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as "Rules, 2005") postulates that the said rule shall be applicable to every government servant and definition of 'government servant' has been given in Rule 2k of the Rules 2005, which defines the 'government servant' to be a member of a service or holding a civil post under the State. 'Service' has been defined under Rule 2o of the Rules as civil service of the State. Therefore, admittedly, the petitioner is a government servant and therefore,



Rules, 2005 shall govern the disciplinary action against him. As far as Rule 28 of the Rules, 2005 is concerned, the same is *pari materia* to Rule 853A of the Bihar Police Manual. However, the only difference is that Rule 28 postulates that revision of the penalty imposed by the disciplinary authority can be effected only within six months of the date of the order proposed to be revised.

10. In the present case, the order of punishment passed by the disciplinary authority, which has been sought to be revised is 28.05.2021, whereas the revisional order is dated 24.08.2022, meaning thereby that the same has been passed after more than one year, which is not permissible in the eyes of law, as aforesaid, hence on this ground as well, the impugned order dated 24.08.2022, passed by the Director General of Police, Bihar Patna is fit to be set aside.

11. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, this Court finds that the order dated 24.08.2022, passed by the Director General of Police, Bihar, Patna is contrary to law, hence is not sustainable in the eyes of law, thus is quashed. I may hasten to add here that since the petitioner has not thought it proper to challenge the order of punishment dated 28.05.2021, passed by the Inspector



General of Police, Tirhut Range, Muzaffarpur, this court has refrained from interfering with the same.

12. The writ petition stands allowed to the aforementioned extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07.03.2024
Transmission Date	NA

