

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.7355 of 2018**

Ashok Kumar Son of Late Ram Briksha Mahto, Resident of Villagle-Mahuawa, P.O.- Damodarpur, P.S.- Pipra, District- East Champaran, Motihari, at present posted as Constable of Excise, C/o Superintendent of Excise, Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Registration, Excise and Prohibition Government of Bihar, Pa
3. The Commissioner, Registration, Excise and Prohibition Department, Government of Bihar, Patna.
4. The Collector, Gopalganj.
5. The Superintendent of Excise, Gopalganj.
6. The Superintendent of Excise, Munger.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Kaushalesh Choudhary  
For the Respondent/s : Mr.Anil Kumar Sinha -Ga1

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL ORDER**

5      14-05-2024                      Heard learned counsel for the petitioner and counsel  
for the State.

2. The present writ petition has been filed for directing the concerned respondents for quashing the punishment order passed by the Special Superintendent Excise, Bihar, Patna vide Memo No. 4335 dated 16.10.2017 by which three yearly increment of the petitioner has been withheld with cumulative effect and the salary for the suspension period except subsistence allowances have been withheld. Further



prayer has been made for directing the respondent concerned for payment of salary and allowances to the petitioner for the period of suspension i.e., from 23.08.2016 to 16.10.2017.

3. Learned counsel for the petitioner submits that in departmental proceeding, there is gross violation of the established Rule i.e. Rule 18(4) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. Counsel for the petitioner further submits that the action has been taken against the petitioner making him escape goat whereas no action has been taken against other Officials because petitioner was the staff of the lowest cadre.

4. Counsel for the State has raised preliminary objection and submits that the petitioner ought to raise the remedy of Appeal under Rule 24 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 which he has not exhausted. He further submits that it is the case in which death of 18 innocent people has taken place and the State has taken stand in its counter that due to deficiency of the Excise Officials including the petitioner, tragedy occurred and resulted into loss of 18 lives. Separate action has been taken against all the concerned Excise Officers including the present petitioner.



5. Upon hearing the parties, it transpires to this Court that the petitioner has failed to exhaust the appellate remedy of appeal as laid down under Rule 24 of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. As such, this writ petition is disposed off directing the liberty to the petitioner to raise all his grievances before the appellate authority first then come to Court.

6. Petitioner is directed to file appeal before the appellate authority within 40 days and appellate authority is directed to pass reasoned and speaking order in the appeal filed by the petitioner within 90 days from the date of production/receipt of this order.

7. Appellate authority is also directed to condone the delay, if any, in filing the appeal by the petitioner.

**(Dr. Anshuman, J)**

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