

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8237 of 2016

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Jagat Lal Son of late Deoki Lal Resident of Village/MOhalla- Gola Road, PS
Danapur, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary Registration, Excise Department,
Government of Bihar, Patna.
2. The Commissioner Excise Department, Government of Bihar Patna.
3. The Deputy Secretary Registration Excise and Prohibition Department,
Government of Bihar, Patna.
4. The Collector, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kr. Mishra, Sr. Advocate Ms. Manini Jaiswal, Advocate Mr. Ashwini Kumar, Advocate Mr. Arun Kr. Bhagat, Advocate
For the State	:	Mr. Nagendra Pd. Yadav (SC-23)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 22-04-2025

Heard Learned Senior Counsel for the petitioner and
Learned Counsel for the State.

2. The present writ petition has been filed for issuance
of a writ in the nature of certiorari for quashing the impugned
order dated 14.11.2012 contained in Memo No.5821 (annexed
as Annexure-7) issued under the signature of Deputy Secretary,
Registration Excise and Prohibition Department, Government of
Bihar by which two increments of salary has been stopped
without any departmental proceeding and on a non-existence
ground.

3. Learned Senior Counsel for the petitioner submits



that during pendency of the writ petition, petitioner has retired from the service on 31.01.2015. Senior Counsel submits that the order impugned has been passed in gross violation of Rule 19(1) (d) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as 'CCA Rules, 2005'). Senior Counsel further submits that the show-cause about which indication has been made in the order is Letter No.5551 dated 03.11.2012 (annexed as Annexure-6) is also bad in law. Senior Counsel submits that the order which has been passed is completely without recording any finding on imputation of misconduct or misbehaviour as mentioned in Rule 19(1)(d) of the CCA Rules, 2005. Therefore, the order impugned is bad in law and fit to be set aside.

4. Learned Counsel for the State on the other hand submits that the said order is sustainable in the eye of law due to petitioner's action who has caused revenue loss to the State and the petitioner has completely failed for monthly consumption/lifting quota of liquor and therefore, the department sought an explanation from the concerned district level officers including the present petitioner and upon his response which has been found unsatisfactory, the punishment order has been passed and it is due to this reason, the present



writ petition is fit to be dismissed.

5. After hearing the arguments of Learned Senior Counsel for the petitioner and Learned Counsel for the State, it transpires to this Court that the order impugned is basically a minor punishment and for minor punishment, the procedure prescribed under Rule 19 of the CCA Rules, 2005 is very much relevant which states as follows:-

“19. Procedure for imposing minor penalties-

(1) Subject to the provisions of sub-rule (3) of Rule 18, no order imposing on a Government Servant any of the penalties specified in clauses (i) to (v) of Rule 14 shall be made except after-

(a) informing the Government Servant in writing of the proposal to take action against him and of the imputations of misconduct or misbehaviour on which it is proposed to be taken, and giving him reasonable opportunity of making such representation as he may wish to make against the proposal;

(b) holding an inquiry in the manner laid down in sub-rules (3) to (23) of Rule 17, in every case in which the disciplinary authority is of the opinion that such inquiry is necessary;

(c) taking the representation, if any, submitted by the Government Servant under clause (a)



and the record of inquiry, if any, held under clause (b) into consideration;

(d) recording a finding on each imputation of misconduct or misbehaviour; and

(e) consulting the Commission where such consultation is necessary.

(2) The record of the proceedings in such cases shall include-

(i) a copy of the intimation to the Government Servant of the proposal to take action against him;

(ii) a copy of the statement of imputations of misconduct or misbehaviour delivered to him;

(iii) his representation if any;

(iv) the evidence produced during the inquiry;

(v) the advice of the Commission, if any;

(vi) the findings of each imputation of misconduct or misbehaviour; and

(vii) the orders on the case together with the reasons therefor.”

6. It transpires to this Court from the said Letter that there is neither any proposal to take action against him of the imputation of misconduct or misbehaviour on which it is proposed to be taken nor in the final order, finding on imputation of misconduct or misbehaviour has come. There are absolute lacking of the ingredients of procedure for imposing minor penalty in the opinion of this Court and it is due to this



reason, order dated 14.11.2012 contained in Memo No.5821 (annexed as Annexure-7) as well as Letter No.5551 dated 03.11.2012 (annexed as Annexure-6) are hereby set aside.

7. As per the submission made by Learned Senior Counsel for the petitioner that the petitioner has already retired on 31.01.2015, therefore, the Deputy Secretary Registration Excise and Prohibition Department, Government of Bihar, Patna (Respondent no.3) is hereby directed to correct the salary and other pensionary benefits of the petitioner as well as his arrears is also directed to be calculated and the Respondent no.3 shall assure the payment after making calculation as if there was no punishment imposed to the petitioner during his service career within 3 months from the date of production of this order before him.

8. Accordingly, with the aforesaid observation and direction, the present writ petition is hereby allowed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	23/04/2025
Transmission Date	NA

