

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 9526 of 2023

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Ramraj Singh Son of Dayanand Singh, Resident of House No. 163
Shivajinagar Bagicha, Dinapur-Cum-Khagaul, P.S.- Khagaul, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through the Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Magadh Range, Gaya.
3. The Senior Superintendent of Police, Gaya.
4. The Assistant Superintendent of Police, (Law and Order) Gaya.
5. The Enquiry Officer-Cum-Additional Superintendent of Police, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Vinay Ranjan, Advocate

For the Respondent/s : Mr Dhurendra Kumar, AC to GP V

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL JUDGMENT

Date : 28-04-2025

This petition has been preferred by the petitioner being aggrieved with the order dated 27.08.2022 issued by the Senior Superintendent of Police, Gaya whereby and where under punishment of stoppage of increment of salary for six months with non-cumulative effect which is equivalent to one black mark has been imposed upon the petitioner and further, for quashing the order dated 02.11.2022 whereby the appeal preferred by the petitioner has been rejected and also for quashing the order dated 30.11.2022 whereby the memorial submitted by the petitioner has also been rejected.



2 Brief facts of the case are that at the relevant time, petitioner was posted as SHO, Belaganj PS, Gaya. Charge sheet has been issued against the petitioner wherein charges were framed against the petitioner regarding entries not made in the station diary and the traffic jam. During conducting the departmental enquiry, petitioner submitted his defence on 05.08.2022 and 11.08.2022. The Enquiry Officer, without considering his defence and explanation and without taking evidence of the cited witness in presence of the petitioner, submitted his enquiry report holding the petitioner guilty of the charges levelled against him. Further, the enquiry report has not been supplied to the petitioner by the Disciplinary Authority nor any second show cause was issued to the petitioner before imposing any penalty by the Disciplinary Authority. Finally, the Disciplinary Authority passed the order of punishment which has been assailed by way of appeal by the petitioner which has been rejected and further memorial has also been rejected. Hence, this petition.

3 Learned counsel for the petitioner would submit that at the relevant time, the petitioner was a Sub Inspector of Police, therefore, the Disciplinary Authority was either Inspector General of Police or Deputy Inspector General of Police and not the Senior Superintendent of Police. Therefore, the Senior Superintendent of



Police, Gaya has no authority or jurisdiction to ask any show cause or initiate any departmental proceeding against the petitioner. The next submission made by the learned counsel for the petitioner is that the Enquiry Officer did not record the evidence of both the cited witnesses in presence of the petitioner nor any opportunity of cross-examination has been given to him by the Enquiry Officer. This aspect has not been considered either by the Enquiry Officer or the Disciplinary Authority and the authorities who decided the appeal and the memorial. Lastly, learned counsel submits that the copy of the enquiry report has not been supplied to the petitioner and without issuance of any second show cause, the Disciplinary Authority directly passed the order of punishment which is bad in law. Therefore, on these grounds, it is prayed by the learned counsel that the order impugned is liable to be quashed.

4 The learned State Counsel opposes the argument advanced by the learned counsel for the petitioner and submits that statement of both the witnesses were recorded by the Enquiry Officer in presence of the petitioner. Therefore, the argument raised by the learned counsel for the petitioner is not sustainable. With regard to the punishment, it is submitted by the learned counsel for the State that considering the charges levelled against



the petitioner, the Disciplinary Authority rightly passed the order of punishment.

5 Heard. Perused the material available on record.

6 Undisputedly, at the relevant time, the petitioner was posted as SI and was posted as SHO of Belaganj PS. Specific averment has been made by the counsel that since the petitioner was the Sub Inspector of Police, therefore, the Disciplinary Authority of the petitioner would be either Inspector General of Police or Deputy Inspector General of Police. The SSP, Gaya was not the competent authority to initiate any departmental enquiry against the petitioner. The above averment made by the counsel, which is available in paragraph 17 of the petition, has not been denied by the respondent-State in its counter affidavit.

7 Perusal of the charge memo shows that two witnesses, namely Bharat Soni and Neeraj Kumar were cited as departmental witnesses. The enquiry report (Annexure R-3A) further shows that before the Enquiry Officer, written statements of the above witnesses were produced before the Enquiry Officer and no opportunity of cross-examination of those witnesses were given to the petitioner. The record further shows that before passing of the order of punishment, no second show cause notice was issued or served upon the petitioner by the Disciplinary Authority. These



facts were categorically mentioned by the petitioner in his appeal as well as memorial but both the authorities did not consider the same.

8 As discussed above, the enquiry proceeding cannot survive.

9 Accordingly, the charge sheet, the entire proceedings, order of punishment dated 27.08.2022, order dated 02.11.2022 passed by the appellate authority as well as the authority who passed the order dated 30.11.2022 on memorial are all liable to be and are hereby quashed.

10 The competent authority, if so advised, may take action in accordance with law.

11 Accordingly, the petition is allowed.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.05.2025
Transmission Date	NA

