

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9014 of 2016

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Madhukar Prasad Sinha, son of late Jai Narayan Prasad, resident of village
Daria Chapra, P.O. Motipur, P.S. Motipur, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. Director General of Police, Bihar, Patna.
3. Inspector General of Police, Military Police, Bihar, Patna.
4. D.I.G. of Police, Military Police, Central Zone, Patna.
5. Commandant, B.M.P. 10, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Advocate
For the Respondent/s : Mr. Ajay Behari Sinha, GA-8

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER

4 08-01-2025 Heard learned counsel for the parties.

2. The petitioner has put to challenge the following
orders:-

(i) The order of Commandant, B.M.P.-10, Patna dated
16.06.2014 (Annexure-2), whereby the increment of the
petitioner for one year was withheld, which is equal to two
black marks and salary/subsistence allowance was ordered to be
forfeited for the period from 23.08.2013 to 28.11.2013 by
treating it as extraordinary leave.

(ii) The order of Appellate Authority/D.I.G. of Police,



Military Police, Central Zone, Patna dated 29.12.2014 (Annexure-4), whereby the appeal of the petitioner has been rejected.

(iii) The order of the Revisional Authority/I.G. of Police, Military Police, Central Zone, Patna dated 16.05.2015 (Annexure-5), whereby the revision of the petitioner has been rejected showing that it is not maintainable.

3. The primary ground of challenge made by the petitioner on the order of punishment imposed upon the petitioner vide Annexure-2 is that the same has been passed by the authority without supplying the enquiry report as well as serving second show cause notice to the petitioner on the proposed punishment.

4. In this regard, the petitioner, in paragraph no. 9(vii) of the writ petition, has stated as under:-

“Copy of finding has not been supplied to the petitioner so the petitioner could not know that on what grounds the enquiry officer found the petitioner guilty. So the defence of the petitioner has been prejudiced.”

5. In reply to the averments made by the petitioner in paragraph no. 9(vii) of the writ petition, the respondent no.5 has filed a counter affidavit, wherein in paragraph no. 11 (vii), it has been stated as under:-



“That format of charge sheet has already been served earlier vide Memo No. 2733 dated 19.10.2013.”

6. From reply filed by respondent no.5 to the contention made by the petitioner that the finding recorded/enquiry report was not supplied to him, it is found that the respondent no.5 has not denied the contention made by the petitioner but rather some evasive reply has been given to the extent that format of the charge sheet has already been served earlier vide Memo No. 2733 dated 19.10.2013, which is indicative of the fact that the enquiry report of the enquiry officer was not supplied to the petitioner.

7. On having noticed the evasive reply of the respondent no.5 in the counter affidavit as regards averment made by the petitioner that the enquiry report was not supplied to him before passing the impugned order of punishment, this Court vide dated 13.11.2024, requisitioned the original records of the departmental proceeding conducted against the petitioner in order to re-assure itself as to whether the enquiry report by the enquiry officer was supplied to the petitioner or not before the impugned punishment was inflicted upon the petitioner. Pursuant to the aforesaid direction, learned Sr. Counsel



appearing for the respondent-State has produced the original records of the departmental proceeding conducted against the petitioner. On perusal of the original records of the departmental proceeding conducted against the petitioner, it appears that the enquiry report was admittedly not supplied to the petitioner before the impugned order of punishment was passed by the respondent authorities.

8. It being the settled position of law that before the order of punishment, after conclusion of the enquiry, is passed against the delinquent officer, it is mandatory for the authorities to supply the enquiry report, else it would be a violation of principle of natural justice, I am of the view that the impugned order of punishment passed by the respondent authorities in the instant case cannot be sustained in law.

9. For the reasons recorded hereinabove, the order of Commandant, B.M.P.-10, Patna dated 16.06.2014 (Annexure-2), the order of Appellate Authority/D.I.G. of Police, Military Police, Central Zone, Patna dated 29.12.2014 (Annexure-4) and The order of the Revisional Authority/I.G. of Police, Military Police, Central Zone, Patna dated 16.05.2015 (Annexure-5) are hereby set aside and quashed. The entire matter shall now be remitted back to the disciplinary authority to proceed against the



petitioner from the stage of serving the enquiry report upon him
and thereafter to proceed further in accordance with law.

10. The writ petition is disposed of with the above
direction.

(Nani Tagia, J)

Amrendra/-

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