IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10390 of 2016

CNR No. BRHC010077642016

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Dilip Kumar Jha Son of Late Munishwar Jha Resident of Flat No. 203, Swadha Apartment, Mohalla Ashiana, Police Station Rajiv Nagar District Patna Presently Posted as Deputy Superintendent of Police Head Quarter kaimur, Bhabhua Bihar

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The principal Secretary, Home Police Department, BIhar, Patna
3. The Director General of Police, Bihar, Patna
4. Special Secretary, Home Police Department, Government of BIhar, Patna
5. The Joint Secretary Home POlice Department, Government of Bihar, Patna

... ... Respondent/s

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with

Civil Writ Jurisdiction Case No. 10482 of 2016

CNR No. BRHC010077642016

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Dilip Kumar Jha Son of Late Munishwar Jha, Resident of Flat No. 203, Swadha Apartment, Mohalla Ashiana, Police Station Rajiv Nagar, District Patna, presenlty posted as Deputy Superintendent of Police Head Quarter Kaimur, Bhabhua Bihar.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Home Police Department, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. Special Secretary, Home Police Department, Government of Bihar, Patna.
5. The Joint Secretary Home Police Department, Government of Bihar, Patna.

... ... Respondent/s

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Appearance :
(In Civil Writ Jurisdiction Case No. 10390 of 2016)
For the Petitioner/s : Mr.Prafull Chandra Jha, Advocate

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For the Respondent/s : Mr.Subodh Kumar Jha, AAG-1
Mr.Chandra Mohan Jha, AC to AAG-1
(In Civil Writ Jurisdiction Case No. 10482 of 2016)
For the Petitioner/s : Mr.Prafull Chandra Jha, Advocate
For the Respondent/s : Mr.Subodh Kumar Jha, AAG-1
Mr.Krishna Kumar, AC to AAG-1

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR

ORAL ORDER

5 27-10-2026 ***Ref:- C.W.J.C. No. 10390/2016***

Heard the parties.

2. The present writ application has been filed seeking the following reliefs:-

" *i) For setting aside the order bearing no. 3323 Patna dated 28.04.2016 (Annexure: 7) passed under the signature of the Joint Secretary, Home Department (Police Branch), Govt. of Bihar, whereby it was ordered that the order of punishment as contained in resolution no. 2927 dated 02.04.2014 would be effective for the years 2014,2015 and 2016.*

ii) Case In eourse the other prayers made in this writ application do not find favour by the Hon'ble Court then for holding that the affect of the punishment as contained in resolution no. 2927 dated 02.04.2014 would relate back to the year of occurrence, i.e. in the year 2000 and would remain effective and in force for three years only i.e. till the year 2003.

iii) For quashing the order contained in resolution no. 2927 Patna dated 02.04.2014 issued under the signature of the Special Secretary, Home Department (Police), Govt. of Bihar, whereby a punishment of stoppage of

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three annual increments with non cumulative effect was inflicted on the petitioner.

iv) For all consequential relief/reliefs for which the petitioner is found entitled in course of hearing of this writ application."

3. The petitioner was punished vide order dated 21.12.2010. He was punished with the withholding of three increments with cumulative effect. But subsequently, the petitioner challenged this punishment before this Court by filing C.W.J.C. No. 4664/2011 which was allowed and the direction issued by this Court in Paragraph '12' of the order reads as under:-

"*12. However, I equally do not find any infirmity in proceedings. Had the petitioner been in service for some years, and had some more experience, the matter would have been different, but as he was still a probationer conducting the very first few of the investigations, the punishment inflicted is excessive and disproportionate in the circumstances. As such, I set aside the order of punishment and remit the same to the Government for reconsidering the quantum of punishment in the light of discussions made above.*"

4. Pursuant to the order of this Court, the punishment was modified vide order dated 02.04.2014, whereby the three increments were withheld without cumulative effect.

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5. Thereafter, the authorities after facing some confusion about the date from which the punishment would take effect and by the impugned letter dated 28.04.2016, it has been decided that the impugned order will take effect from the date on which the order of punishment was modified i.e. 02.04.2014.

6. Learned counsel for the petitioner submits that since the original punishment order was dated 21.12.2010, the modified punishment must take effect from the date of the initial order rather than the subsequent modification order.

7. In support of his contention, learned counsel for the petitioner has relied upon the judgment dated 19.01.2015 passed by a Division Bench of this Court in **L.P.A. No. 667/2014 (The State of Bihar and Ors. vs. Prantosh Kumar Das)** reported in **2015 SCC Online Pat 175**.

The relevant portion of the judgment reads as under:-

> *" 31. If the increment was stopped for one year by the original order of punishment, dated 02.03.2009, and reiterated by a subsequent order, dated 22.02.2013, passed on remand by the High Court, the writ petitioner-respondent's disability and agony cannot be stretched from 02.03.2009 to 31.06.2014. In this regard, we can gainfully rely upon a decision of the Supreme Court, in L. Rajaiah v. Inspector General of Registration & Stamps, Hyderabad & Others, reported in (1996) 8 SCC 246. In L.*

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Rajaiah (supra), the Supreme Court has observed that if increment is stopped for five years, the disability would continue only for five years and as soon as the period of five years is over, the disability ceased to exist and the person can regain fitness for promotion. Similarly, here also, if the increment is withheld for one year, the disability for consideration of promotion would last only for a year. Thereafter, the employee becomes entitled for promotion.

32. In the present case, the effect of withholding of increment would also relate back to the date of original punishment awarded on 02.03.2009. Hence, the adverse effect of stoppage of increment would continue from the date it becomes due, i.e. 30.06.2009, for one year i.e. up to 30.06.2010. The learned single Judge was correct in observing that the petitioner did not suffer from any disability on 31.12.2010, when his juniors were granted promotion to the post of Additional Superintendent of Police. We fully and entirely affirm the aforesaid view of the learned single Judge.

33. In the result, this appeal is partly allowed as observed and directed above. The impugned order shall accordingly stand modified to the extent indicated hereinabove."

8. Learned counsel for the State, in view of the Division Bench pronouncement by this Court, has vehemently

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opposed but cannot succeed in light of the said judgment. Learned counsel has also relied upon the resolution no. 2927 dated 02.04.2014.

9. In view of the above, this application stands allowed and the letters dated 02.04.2014 and 28.04.2016 annexed as Annexures ‘4’ and ‘7’ are hereby quashed.

10. It held that the punishment order which was modified subsequently will be in effect from 21.12.2010 and not the subsequent date on which the same was modified.

11. The respondents are directed to grant all consequential benefits, including due promotion, to the petitioner within a period of two months from the date of receipt/communication of a copy of this order.

12. Respondent No. 2, the Principal Secretary, Home (Police) Department, Government of Bihar, is directed to ensure compliance with this order within the stipulated period.

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13. Heard the parties.

14. C.W.J.C. No. 10390/2016 has been allowed in favour of the petitioner and the respondents have been directed to grant all consequential benefits including due promotion to the petitioner.

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15. In these circumstances, list this case after ten weeks awaiting the decision of the respondent-authorities.

(Sandeep Kumar, J)

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