

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14444 of 2021

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Dilip Kumar son of Ram Prayojan Singh, Resident of Village and P.O.-
Kishunpur Madhuban, P.S.-Turki, District-Muzaffarpur, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Home, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Saran Range, Chhapra.
4. The Superintendent of Police, Siwan.
5. The Inquiry Officer-cum-Deputy Superintendent of Police (HQ), Siwan.

... ... Respondent/s

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Departmental Proceeding – weather inquiry report furnished to the petitioner nor any second show cause notice was served – resulted in denial of reasonable opportunity to put forth his defence and prove his innocence – held resulting in breach of principles of natural justice and violation of the provision contained in Article 311(2) of the constitution of India.

Order of punishment three black marks, equivalent to withholding of increment of wages for two years – quashed – matter remitted back to the disciplinary authority with liberty to proceed afresh from the stage subsequent to submission of the inquiry report.

Relied on - Union of India vs Mohd. Ramzan Khan, (1991)1 SCC 588.

Manning director, ECIL Hyderabad vs B Karunakar and or (1993)4 SCC 737

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... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pushkar Narain Shahi, Sr. Adv. Mr.Ajay Kumar Singh, Adv. Ms.Deeksha Singh, Adv. Mr.Raghvendra Kumar, Adv. Mr.Amit Anand, Adv.
For the Respondent/s	:	Mr.Md. N.H. Khan, SC-1 Mr.Md.Fazle Karim, AC to SC-1

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 18-01-2024

1. The present writ petition has been filed for quashing the order dated 31.08.2019, passed by the Superintendent of Police, Siwan, whereby and where under punishment of three black marks, equivalent to withholding of increment of wages for two years, has been inflicted upon the petitioner. The petitioner has also challenged the appellate order dated 19.06.2021, passed by the Deputy Inspector General of Police, Saran Region Chapra, as communicated vide memo date 05.07.2021, issued by the Superintendent of Police, Siwan.



2. The brief facts of the case, according to the petitioner are that the petitioner was appointed as Sub-inspector of Police vide memo dated 11.02.2009, whereafter he had been working satisfactorily and was transferred from one place to another. While he was posted as Officer-in-charge, Guthani Police Station, district Siwan, one Ram Bharosa Rai and some other persons had made a complaint to the Inspector General (Excise and Prohibition) Bihar, Patna, alleging therein that the petitioner had detained a vehicle loaded with rice as also carrying 32 cartons of liquor and after taking a sum of Rs. 1.25 lacs, had released the said vehicle. Thereafter, inquiry was made and a memo of charge was issued to the petitioner by the Superintendent of Police, Siwan, vide memo dated 20.05.2019, to which the petitioner had submitted his reply and then a departmental inquiry was conducted whereupon the Inquiry Officer had submitted his Inquiry Reports dated 31.07.2019 and 23.08.2019 finding all the charges to have been proved. Thereafter, the disciplinary authority, i.e. the Superintendent of Police Siwan, without either serving a copy of the Inquiry Report upon the petitioner or issuance of any second show-cause notice has inflicted punishment upon the petitioner, vide the impugned order dated 31.08.2019, which was challenged by



the petitioner by filing an appeal however, the same has also stood dismissed.

3. The learned senior counsel for the petitioner has submitted that since neither a copy of the Inquiry Report has been served upon the petitioner nor any second show-cause notice has been issued by the disciplinary authority before inflicting punishment upon the petitioner, the same has not only resulted in denial of reasonable opportunity to the petitioner to prove his innocence but also amounts to breach of the Principles of Natural Justice, hence the entire inquiry proceedings culminating into passing of the impugned order of punishment dated 31.08.2019 as also the appellate order are vitiated in the eyes of law, thus are fit to be set aside.

4. At this juncture, the learned senior counsel for the petitioner has also submitted that the present case is a case of no evidence and the complainant and others have not been examined as witnesses during the course of enquiry.

5. Per contra, though the learned counsel for the respondent-State has opposed the present writ petition, however, he has fairly admitted that neither a copy of the Inquiry Report was furnished to the petitioner nor any second show-cause notice was issued to the petitioner, hence the matter be



remanded back to the Disciplinary Authority from the stage of submission of the Inquiry Report by the Inquiry Officer.

6. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that neither the Inquiry Report has been furnished to the petitioner nor any second show-cause notice has been served upon the petitioner, which has definitely resulted in denial of reasonable opportunity to the petitioner to put forth his defense and prove his innocence, hence the same has also resulted in breach of the Principles of Natural Justice and violation of the provisions contained in Article 311(2) of the Constitution of India, thus the entire departmental proceedings from the stage subsequent to submission of the Inquiry Report by the Inquiry Officer, being unfair, unjust and illegal stands vitiated in the eyes of law. Reference in this regard be had to a judgment rendered by the Hon'ble Apex Court in the case of *Union of India vs. Mohd. Ramzan Khan*, reported in (1991) 1 SCC 588 as also the Constitution Bench judgment rendered by the Hon'ble Apex Court in the case of *Managing Director, ECIL Hyderabad vs. B Karunakar and Ors.*, reported in (1993) 4 SCC 737.

7. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I deem it fit



and proper to quash the order of punishment dated 31.08.2019, as also the appellate order contained in memo dated 05.07.2021 and remit the matter back to the Disciplinary Authority with liberty to proceed afresh from the stage subsequent to submission of the inquiry report by the Inquiry Officer.

8. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

