

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1515 of 2017

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Rabindra Jha, son of Bhoot Narayan Jha, resident of Village - Faridpur, Post Office - Jamalpur, Police Station - Jamalpur, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Home, Government of Bihar, Patna.
3. The I.G., Prison, Government of Bihar, Patna.
4. The Superintendent, Shahid Jubba Sahni, Central Jail, Bhagalpur.
5. The Superintendent, Sub Jail, Sheikhpura.
6. The Superintendent, Sub Jail, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suraj Narayan Yadav, Advocate
For the Respondent/s : Mr. Md.Nadeem Seraj-GP-5

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 21-06-2019

Heard Mr. Suraj Narayan Yadav, learned advocate for the petitioner and Mr. Nadeem Seraj, learned G.P.-5.

2. The petitioner has challenged the order dated 09.06.2014 contained in Memo No. 3034 issued under the signature of Principal Secretary, Government of Bihar, Patna whereby the memorial/revision of the petitioner has been rejected as also the order dated



04.08.2011 passed in service appeal against the order dated 20.12.2010 passed by the Disciplinary Authority, reverting the petitioner to the lowest stage of his post, which too was dismissed.

3. The case of the petitioner has a long history.

4. The petitioner was served with the charge of having allowed unauthorized persons to enter the jail premises on 23.04.2002. The petitioner was subjected to a departmental proceeding in which the Disciplinary Authority slapped the petitioner with a punishment of reversion to the basic pay vide order dated 12.01.2003. The petitioner preferred an appeal against the aforesaid order in which the order of punishment by the Disciplinary Authority was set aside by order dated 21.04.2004 and the case was remanded to the Disciplinary Authority to conduct the proceedings afresh and pass a reasoned order in accordance with law. Thereafter, the Disciplinary Authority, vide order dated 20.12.2010, issued under the signature of



Superintendent of Central Jail, Bhagalpur, passed an order reverting the petitioner to his basic pay.

5. This order viz. the order dated 20.12.2010 was challenged by the petitioner before this Court vide C.W.J.C. No. 13164 of 2008 which was rejected on 19.05.2011. While rejecting the writ petition, a Bench of this Court held that the facts of the case disclosed that the petitioner had admitted that he had allowed five unauthorized persons to enter the jail premises. The Court took note of the fact that the Superintendent of Jail and the Assistant Jailor were in-charge of safety and administration of jail premises and that the responsibility did not lay squarely on the shoulders of the petitioner. Nonetheless, the Bench refused to interfere with the order of punishment. However, a liberty was given to him to avail of his statutory right of appeal. The Bench also directed that in case the statutory period for preferring an appeal had lapsed, such aspect be considered favourably by the Appellate



Authority.

6. Pursuant to such a direction and concession given by this Court, an appeal was filed against the order of punishment, which stood rejected. The memorial/ revision against the aforesaid order passed in appeal also stood rejected as noticed above.

7. Mr. Suraj Narayan Yadav, learned advocate for the petitioner, apart from harping on the ground that it was not only the petitioner who was responsible for the unauthorized entry of certain persons in jail premises but the responsibility lay on the head of others as well, further castigated the orders impugned on the ground that those persons who were equally responsible, if not less than the petitioner, were served with minor punishments as compared to the punishment meted out to him. He therefore submits that at all stages of the proceedings, he was put at the farthest end of the stick and different treatment was meted out to him. This, according to the learned



advocate for the petitioner was vindictive and with the sole purpose of singling out the petitioner by saddling and punishing him for the aforesaid charge.

8. Mr. Nadim Seraj, learned advocate for the State however has submitted that this defence of the petitioner was taken note of by the High Court in the year 2011 but the ground that others also are responsible for the unauthorized entry of persons in the jail could not have come to the avail of the petitioner as the petitioner also could not be absolved of his responsibility of the safety of the jail premises. He has further submitted that there is no concept of equality so far as the determination of guilt is concerned and such parity could only have been agitated by the petitioner with respect to the quantum of sentence imposed upon other accomplices of the petitioner. The aforesaid issue was never been agitated and even in this petition, it has not been stated whether the other functionaries of the jail were subjected to disciplinary



proceeding along with the petitioner and whether materials collected against them were any different so as to justify the nature of punishment given to the petitioner.

9. In the absence of such grounds having been taken by the petitioner all this while in the whole gamut of proceedings, it would not be open for the petitioner now to agitate such grounds after so many years and after the petitioner has superannuated from service.

10. The submissions made on behalf of the State appear to be forceful in as much as the conduct of the others would not be an indice for deciding what punishment is required to be given to the petitioner.

11. This Court has no idea about the nature of charge against others to adjudicate/hold that the punishment to the petitioner was different and harsher than others.

12. This Court finds that the order does not suffer from the vice of harsh punishment which is



disproportionate to the nature of lapse on the part of the petitioner. The allegations against the petitioner cannot be said to be a flea bite. The safety of the jail is dependent on the diligent performance of duty by the jail functionaries, specially the petitioner, who at the relevant time was a Warden.

13. This Court finds no reason to interfere with the orders passed in appeal and revision which have been impugned in the present petition.

14. The petition stands dismissed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25/06/2019

