

**(2011) 07 PAT CK 0285**

**Patna High Court**

**Case No:** CWJC No. 3704 of 2008

Ganesh Rai @ Ganesh Roy

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

**Date of Decision:** July 6, 2011

**Citation:** (2011) 4 PLJR 158

**Hon'ble Judges:** J.N. Singh, J

**Bench:** Single Bench

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

J.N. Singh, J.

Heard learned counsel for the petitioner as well as learned counsel for the State.

2. Annexure-9 is the impugned order by which, on conclusion of a departmental proceeding, petitioner has been inflicted with two punishments, namely, (i) one annual increment has been withheld without cumulative effect, and (ii) he shall not be entitled to any other payment of the period of his suspension except subsistence allowance.

3. It has been pleaded in the writ application and learned counsel for the petitioner asserts that before the impugned order was passed, petitioner was not given any separate show cause notice nor any copy of the enquiry report was served upon him, giving him any opportunity to file a reply to the same for consideration by the disciplinary authority. He also submits that petitioner was not paid even a single farthing as subsistence allowance during the period of his suspension which vitiates the entire enquiry. He lastly submits that for withholding payment of full salary of suspension period, a separate second show cause notice is required as held by the Division Bench of this Court in the case of Sri Mahabir Prasad vs. The State of Bihar, reported in 1988 PLJR 82 , and in the case of Dinesh Prasad Vs. State of Bihar and Others, .

4. Though a counter affidavit has been filed in this case, there is no reply therein to the said stand of the learned counsel for the petitioner. The factual pleading, as pointed out by learned counsel for the petitioner, has also not been denied.
5. In the circumstances, the writ application is allowed. The impugned order, as contained in Annexure-9, and the enquiry report, as contained in Annexure-C with the counter affidavit, are quashed.