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Ganesh Rai @ Ganesh Roy Vs The State of Bihar and Another

CWJC No. 3704 of 2008

Court: Patna High Court

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.