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**(2010) 12 PAT CK 0014**  
**In the Patna High Court**  
**Case No : CWJC No. 13516 of 2004**

Shambhu Prasad

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

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**Date of Decision :** 13-12-2010

**Acts Referred:**

**Citation :** (2010) 12 PAT CK 0014

**Final Decision :** Allowed

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### **Judgement**

Sheema Ali Khan, J.—The Petitioner is aggrieved by Annexure-16 of the writ petition, by which he has been given punishment of censure and withholding of two increments with cumulative effect. The charges against the Petitioner is that he had given delayed payment with respect to one Subodh Kumar Prasad, Compounder working in Khagaria. It is further alleged that the Petitioner had made excess payment to the said person. Show cause notice was issued. Petitioner replied to the show cause placed materials before the Inquiry Officer indicating that the service book of Shri Subodh Kumar Prasad was not made available to him on 8.1.2002. Although, he has made several request for the service book so that the payments could be made within time. It has been stated in the show cause that after receipt of the service book, the Petitioner made recommendation for fixation of the pay of Shri Prasad on 6.3.2002.

2. Counsel for the Petitioner submits that the Petitioner cannot be held responsible if the concerned persons do not send the service book of Shri Prasad to the Petitioner. It is further submitted that second charge relates to excess payment. Referring to Memo No. 691 of 29.7.1995, whereby the Chief Medical Officer-cum-Civil Surgeon, pointed out that the rate has been fixed by the office concerned at Rs. 15.36 and as such the Petitioner only followed the direction issued by the higher authority, and therefore, it cannot be said that he was responsible for the excess payment.

3. Counsel for the Petitioner further submits that the Inquiry Report was not served upon the Petitioner and as such he does not have any ideas as to what

were the considerations that weighed with Inquiry Officer or the recommendations made by the Inquiry Officer to the disciplinary authority.

4. It is well settled in the judgment rendered in the case of Union of India and others Vs. Mohd. Ramzan Khan, that the incumbent facing disciplinary proceeding would be entitled to get a copy of the inquiry report, indicating the reasons for allowing or disallowing the show cause of the incumbent.

5. In fact, in this case, no show cause was issued to the Petitioner before passing the impugned order. In the circumstances, this, court cannot hold that the order impugned is in accordance with law. I, therefore, quash Annexure-16 with liberty to the State to serve a copy of the inquiry report to the Petitioner, so that he may take appropriate steps in the proceeding.

6. This application is allowed to the extent aforesaid.