

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No. 15408 of 2006**

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Baleshwar Pd. Singh S/o Sri Ram Narayan Singh, Resident of village: Wajitpur,  
P.O.:Gopalpur, P.S.: Sonpur, District: Chapra.

.... .... Petitioner

Versus

1. The State of Bihar
2. Inspector General of Police, Darbhanga Range, Darbhanga.
3. Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
4. Superintendent of Police, Darbhanga.

.... .... Respondents

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**Appearance :**

For the Petitioner/s : Mr. Laxmi Narayan Das  
Mr. Abhitabh Sohan

For the Respondent/s : Mr. Amaresh Kr. Sharma, AC to SC-22

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**CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR**

**ORAL JUDGMENT**

**Date: 04-02-2015**

Heard Sri Laxmi Narayan Das, learned counsel, who was  
assisted by Sri Abhitabh Sohan, learned counsel for the petitioner and  
Sri Amaresh Kumar Sharma, learned A.C. to Standing Counsel – 22.

The sole petitioner, invoking writ jurisdiction of this  
Court under Article 226 of the Constitution of India, has prayed for  
directing the respondents to accept jointing of the petitioner  
immediately and to pay him his due arrears of salary with all  
consequential benefits in accordance with law.

It has been pleaded that the petitioner, who was  
constable, was proceeded departmentally on the ground of  
unauthorized absence after putting him under-suspension by District  
Order No. 800 of 2000 w.e.f. 12-05-2000 issued under the signature



of Superintendent of Police, Darbhanga. In the departmental proceeding, the charge leveled against the petitioner was found correct and by order contained in Memo No. 7621 dated 11-11-2001, the disciplinary authority i.e. Superintendent of Police, Darbhanga passed an order for dismissal of the petitioner from service. The petitioner aggrieved with the order of the disciplinary authority preferred an appeal before the Deputy Inspector General of Police, Darbhanga range, Darbhanga. Finally, by order contained in Memo No. 346 dated 10-06-2005, the appellate authority i.e. Deputy Inspector General of Police set aside the order of dismissal treating the punishment as disproportionate to the charge and directed for reinstatement of the petitioner. The appellate authority only directed for imposing punishment of one black mark. It was further indicated that save and except subsistence allowance, the petitioner would not be entitled to be paid any other benefit. It has been claimed that despite the fact that order of the dismissal was set aside by the appellate authority, the petitioner was never allowed to join and till date, he is moving from pillar to post.

In this case, a counter affidavit has been filed on behalf of respondent no. 4 i.e. Superintendent of Police, Darbhanga. In the counter affidavit, though it has been accepted in paragraph 12 that dismissal order of the petitioner has been set aside by the Deputy

Inspector General of Police, Darbhanga Range, Darbhanga, no plausible explanation has been given in respect of not allowing the petitioner to join.

Learned State counsel, by way of referring to Annexure '5' to the writ petition, submits that the Superintendent of Police, Darbhanga had asked for certain guidelines from the Deputy Inspector General of Police, Darbhanga in respect of re-instatement of the petitioner in the Darbhanga district force. Further, the learned State counsel, by way of referring to statement made in paragraph – 14 of the counter affidavit, submits that departmental enquiry has again been re-started and same is still pending.

In view of order of the appellate authority as well as acceptance of setting aside of order of the dismissal by the respondent no. 4 in its counter affidavit, the Court is of the opinion that action of the respondents in not allowing the petitioner to rejoin is apparently illegal and arbitrary. Once the order of dismissal was set aside by the appellate authority with clear-cut indication that it was disproportionate to the charges and the appellate authority, after setting aside the order of dismissal, has directed for recording one black mark in the service record, the concerned Superintendent of Police was required to immediately allow the petitioner to join the post. Moreover, on perusal of the order of the appellate authority, it is

evident that while setting aside the order of dismissal, he had not granted any liberty to restart departmental proceeding on the same charge.

In view of the facts, particularly; the order of the disciplinary authority, it is apt to direct the concerned Superintendent of Police i.e. respondent no. 4 to immediately accept the joining of the petitioner. Since without any plausible explanation, the petitioner was restrained from joining for such a long time, even after the order of the appellate authority, the petitioner shall be entitled to claim arrear of salary in accordance with law. Regarding the claim of arrear of salary, the petitioner is required to file a detailed representation before the Superintendent of Police, Darbhanga Range, Darbhanga, who will examine the same and pass appropriate order in accordance with law preferably within a period of two months from the date of filing of such representation. It goes without saying that if the petitioner appears before the concerned Superintendent of Police for his joining, he will forthwith allow him to join.

With above observation and direction, the writ petition stands allowed.

**(Rakesh Kumar, J.)**

Anay/-

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