

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16111 of 2008

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Ravindra Kumar Bhatt, son of Late Chet Narayan Bhatt resident of village
Bal Baudh P.O. Bal Bandh , P.S. Charpokhari District Bhojpur
..... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar
Patna
2. The D.G. cum I.G. of Police , Bihar, Patna
3. The D.I.G. of Police, Sahabad Range Dalmiya Nagar, Rohtas
4. The S.P. Rohtas

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Teg Bahadur Singh
Mr. Nirmala Kumari
Mr. Binay Kr.Singh
Mr. Purnendu Nr.Singh

For the Respondent/s : Sri Anil Kumar Sinha, GA 9

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

2 23-09-2015 Heard learned counsel for the petitioner and Sri Anil
Kumar Sinha, learned G.A. No. 9.

The petitioner invoking writ jurisdiction of this Court under Article 226 of the Constitution of India has prayed for directing the Respondents to pay arrear of salary / back wages for the period of dismissal i.e. from 6.7.1998 to 2.9.2006 and also consequential benefits.

Short fact of the case is that the petitioner had earlier proceeded for 12 days leave on 8.3.1990. However, subsequently he was taken into custody in a criminal case for the offence under Section 302 and other allied Sections of the Indian Penal Code as

well as Arms Act on 12.3.1990. He remained in custody for a long period and he was only released on bail on 2.8.1995. Accordingly the petitioner who was a Constable was proceeded departmentally for his un-authorized absence for 1959 days. In the departmental proceeding decision was taken to dismiss the petitioner. Accordingly the petitioner was dismissed from service. The dismissal of petitioner was approved up to memorial, where after the petitioner approached this Court invoking its writ jurisdiction by way of filing a petition vide CWJC No. 8285 of 2004. Before this court learned counsel for the petitioner had confined his submission only to the quantum of punishment which has been noticed in paragraph no. 2 at internal page no. 2 of the Order dated 9.1.2006 passed in CWJC No. 8285 of 2004. This court considering the fact that petitioner had completed 22 years and 9 months of service till his dismissal, took a lenient view in the matter and accordingly allowed the writ petition to the extent of converting the punishment of dismissal to compulsory retirement. In compliance with the order of this Court the case was examined and vide Order Contained in Memo No. 2555 dated 2.9.2006 issued by the Superintendent of Police, Rohtas, the punishment of dismissal was converted to compulsory retirement. Accordingly the petitioner was treated as compulsorily retired

with effect from 6.7.1998. While altering the punishment the Superintendent of Police also regularized his period of absence for 1069 days as extra ordinary leave and direction was given to give pension, gratuity with effect from 6.7.1998.

Learned counsel for the petitioner submits that once the order of dismissal of the petitioner was set aside by this court by its Order dated 9.1.2006, the petitioner was entitled to get his full salary for the period from the date of dismissal to the date of setting aside the order of dismissal. Learned counsel for the petitioner has placed reliance on a judgment of this court passed in CWJC No. 1135 of 1997 on 3rd November 1998. He submits that this Court has already held that once termination order is set aside the employee shall be entitled to get his all back wages from the earlier date. He has also placed reliance on an order of the Apex Court reported in 1995 SCC (L&S) 193 (MANORMA VERMA (SMT) *Versus* STATE OF BIHAR AND OTHERS (Annexure – “4” to the writ petition).

So far as claim of petitioner for earlier arrear of salary is concerned, in view of the facts and circumstances the court is satisfied that he deserves no such relief. Fact remains that this court was persuaded to pass order on 9.1.2006 in CWJC No. 8285 of 2004 only on the submission made by learned counsel for

the petitioner on the question of quantum of punishment. This court had categorically held that decision in the departmental proceeding has not been interfered with. Only keeping in view the fact that petitioner had served for more than 22 years, taking lenient view in the matter this Court directed for converting the punishment of dismissal to compulsory retirement. In view of the facts and circumstances the petitioner is not entitled to get arrear of salary as claimed in the writ petition. Moreover, once in compliance with the order of the writ court a speaking order was passed by the Superintendent of Police which has been annexed as Annexure – “3” to the writ petition and the petitioner has not questioned the said order, there is no point for claiming any relief.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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