

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14032 of 2007

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Bharat Kumar Yadav, son of Bihari Prasad Yadav, resident of village Tuniahi, Police Station Madhepura and District Madhepura.

.... Petitioner

Versus

1. The State of Bihar, through Home Secretary, Government of Bihar, Patna.
2. Director General cum Inspector General of Police, Bihar.
3. Deputy Inspector General of Police, Purnea.
4. Superintendent of Police, District Araria.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Partha Sarthy

For the Respondent/s : AC to A.A.G.-10

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 24-03-2015

Heard learned counsel for the petitioner and learned A.C.

to Addl. Advocate General – 10.

The petitioner, invoking writ jurisdiction of this Court under Article 226 of the Constitution of India, has prayed for quashing of an order dated 16-09-2002 passed by the Superintendent of Police, Araria, whereby, in the departmental proceeding, the petitioner was held guilty and he was dismissed from the service. The petitioner has also assailed the order of the Deputy Inspector General of Police, Purnea dated 03-03-2003, whereby, an appeal preferred by the petitioner against his dismissal was rejected. The petitioner has further prayed for quashing of part of the order dated 07-09-2005 issued under the signature of Director General-cum-Inspector General of Police, Bihar,



Patna (in short "D.G.P."), whereby, the D.G.P., by its order dated 07-09-2005, considering the punishment order as disproportionate, directed to take the petitioner back in service on the initial pay. It was further indicated in the order of the D.G.P. that the petitioner shall not be entitled to get any salary, save and except subsistence allowance during the period of his suspension.

Learned counsel for the petitioner tried to persuade the Court that the order of the D.G.P. is not sustainable in the eye of law. He has placed reliance on an order passed in G.R. Case No. 1174 of 2001 and submits that the petitioner in the criminal case has already been discharged and as such, the petitioner is entitled to be re-instated in service with all consequential benefits.

The fact remains that while the petitioner was under-training had committed certain irregularities and also he was made accused in the criminal case, thereafter, a departmental proceeding was initiated and the Superintendent of Police, Araria, conducting departmental enquiry, inflicted punishment of dismissal from the service. The said order was approved by the appellate authority. However, the D.G.P., taking sympathetic approach to the petitioner, interfered with the order of punishment of dismissal treating it as disproportionate to the charges, has allowed the petitioner to be taken

into service. So far as the claim of discharge from the criminal prosecution is concerned, on perusal of the order, which has been brought on record through supplementary affidavit, it is evident that the petitioner was discharged, in view compromise petition filed by the parties.

After going through the order of the D.G.P., I do not find any defect in the same.

The writ petition stands dismissed.

(Rakesh Kumar, J.)

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