

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17692 of 2015

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Girish Chandra Sinha @ Girish Sinha, S/o Late Ramdhani Prasad, R/o- Chuna Pur Road, Madhubani, P.S.- K. Hat (Madhubani), Distt.- Purnea, at present suspended constable-18, Kishanganj District Force, Kishanganj.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Home, Govt. of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Darbhanga Zone, Darbhanga,
5. The Dy. Inspector General of Police, Purnia Range, Purnia,
6. The Superintendent of Police Kishanganj, at Kishanganj,
7. The Superintendent of Police Katihar at Katihar,

.... Respondent/s

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Appearance :

For the Petitioner/s : Md. Anisur Rahman, Advocate

For the Respondent/s : Mr. Ajit Kumar, AC to GP 19

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 06-01-2016

1. Heard Counsel for the petitioner as well as the learned Counsel appearing for the State.

2. The petitioner was appointed as Constable in Bihar Police in Kishanganj District. He was departmentally proceeded for the following charges:

(i) That he remained absent during office hours. He has also been arrested in a criminal case being K. Hat (Madhubani) P.S. Case no. 257 of 2011, dated 29.06.2011, under Sections 406/420/467/468/471/120(B) of IPC.

A copy of charge memo dated 12.10.2012 is annexed as Annexure-3 at page 26.



3. (a) The petitioner was appointed as constable in Bihar Police in Kishanganj District Police Force in the year 2000. In 2011, he was posted in the Regional Office of Dy. Inspector General of Police, Purnea. On 29.06.2011, the petitioner absent himself during the office hours without any information. The authorities subsequently came to learn that a police case being K. Hat (Madhubani) P.S. Case No. 257 of 2011 was registered on 29.06.2011 under Sections 406/ 420/ 467/ 468/ 471/ 120B of the I.P.C., on the written complain of one Rakesh Kumar. The petitioner was arrested and sent to jail.

4. (b) In view of the conduct of the petitioner, he was put under suspension vide letter no. 1237 dated 30.06.2011 and later on vide letter no. 1201, dated 12.10.2012 and an explanation was sought from him with respect to his alleged misconduct. The petitioner replied to the show cause notice. As the reply to the show cause was found unsatisfactory, a departmental proceeding was started against him and Police Inspector Kishanganj was appointed as the conducting officer. The head quarter of the petitioner was fixed in Kishanganj Police Line. The petitioner, however, abstained himself from the headquarter without any information. In the meantime, the petitioner was named in another criminal case, being Kishanganj P.S. Case No. 399 of 2012, dated 20.10.2012, under Sections 406, 420, 467, 468, 120B of the I.P.C. The petitioner was absconding and evading arrest though both the



departmental proceeding and criminal proceeding were pending. The conducting officer concluded departmental proceeding numbered D.P. No. 02 of 2012, and found him guilty of the charges. It is case of the respondents that a number of witnesses were examined in the proceeding which all supported the charges leveled against him. The witnesses stated that the petitioner duped a heavy amount from different person by inducing them to invest in Non-banking Company, namely, Rashitrya Swarnim Rojgar Mission. As the petitioner was on duty and was absconding from 06.12.2012 to 14.02.2015, the subsistence allowance was seized. It is the further case of the respondent that between 06.12.2012 to 31.08.2013, the petitioner however, withdrew a sum of Rs.1,00,274/- as subsistence allowance.

5. On conclusion of the inquiry, the conducting officer submitted his report recording findings of guilt against the petitioner. It is relevant to state here that the petitioner came to be again named in criminal case being Kishanganj P.S. Case No. 399 of 2012 under Sections 406, 420, 467, 468, 120B of the I.P.C.

6. In the meantime, another departmental proceeding being D.P. No. 15 of 2013 was initiated against him by the then Superintendent of Police, Kishanganj in which he too was found guilty. The order of punishment was issued against the petitioner withholding of six months' increment. It was further ordered as the petitioner remained absconding, no subsistence allowance would

be payable from 06.12.2012 to 14.02.2015.

7. The petitioner submits that on 29.06.2011, while he was performing his duty in the office of D.I.G., Purnea Range, he received an information regarding some hindrances being caused at his house. Only after informing his superiors, he left the office for his house, where he was arrested.

8. The petitioner has prayed for staying the departmental proceeding as well as the order of his suspension. So far as the departmental proceeding is concerned, I find that the order of punishment has already been passed against which there is a statutory appeal. The petitioner would be at liberty to take remedy of appeal. So far as setting aside the order of suspension is concerned, Rule 97 of Bihar CCA Rules, 2005 states that an order of suspension would be revoked if no charge-sheet is submitted within 90 days of such order.

9. I would broadly agree with the submissions of the petitioner that suspension of the petitioner would stand revoked on 30.09.2011 if no charge-sheet was served within 90 days. So far as the prayer for staying of the departmental proceeding is concerned, the same is not tenable, as the disciplinary authority has already passed order of punishment, against which a statutory appeal is provided. The petitioner should seek remedy of appeal and it will be open for the petitioner to make a representation before the concerned Authority for payment of his legitimate dues, which

would be considered in accordance with law.

With the liberty aforesaid, this writ application is

disposed of.

(Samarendra Pratap Singh, J)

kunal/rohit/-

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