

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21294 of 2013

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Rana Ramesh Chandra Singh, Son of Late Siya Sharan Singh, Resident of Village-Bindwara, P.S- Munger, District- Munger

.... Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Additional Director General, Vigilance Investigation Bureau, Government of Bihar, Patna.
4. The Inspector General of Police, (Administration), Government of Bihar, Patna.
5. The Inspector General of Police, Patna Zone, Bihar, Patna.
6. The Deputy Inspector General of Police, Central Zone, Bihar, Patna.
7. The Senior Superintendent of Police, Patna.
8. The Enquiry Officer- Cum- Sub-Divisional Police Officer, Sadar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prakash Kumar, Advocate

For the Respondent/s : Mr. Ashok Kumar Keshri, AAG-11

: Mr. AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 25-01-2016

Heard learned counsel for the petitioner and the respondents.

2. The petitioner was appointed as a Police Inspector by Inspector General of Police (Administration) in the year 1994. Copy of the appointment letter is contained in annexure-1. The petitioner was departmentally proceeded for certain act of misconduct. The enquiry officer concluded finding of guilt. On receipt of the enquiry report of the enquiry officer, the Deputy Inspector General of Police, Central Zone, Bihar, Patna passed the order of dismissal.

3. Being aggrieved, the petitioner has challenged the

impugned order.

4. He submits that the order passed by the Deputy Inspector General of Police, Central Zone, Bihar, Patna is without jurisdiction, as the order of punishment is passed only by the appointing authority, which was the Inspector General of Police. The petitioner in support of his submission has drawn my attention to Article 311 (1) of the Constitution of India, Rules 825 © and 656 of the Bihar Police Manual, which mandate that an employee cannot be dismissed/removed by an officer subordinate to the appointment authority. Exactly a similar issue came for consideration before the L.P.A. Bench in L.P.A. No. 1571 of 2014 arising out of C.W.J.C. No. 12013 of 2012. In the aforesaid case, the respondent-petitioner Shashi Bhushan Prasad was similarly appointed like the petitioner by the Inspector General of Police, Patna and as such the Division bench accepted the contention of the respondent-petitioner.

5. In view of the clear mandate of Article 311 (1) of the Constitution of India, Rules 825 © and 656 of the Bihar Police Manual, the impugned order of dismissal passed by the Deputy Inspector General of Police, Central Zone, Bihar, Patna is set aside. The enquiry report submitted by the conducting officer would now be considered by the Inspector General of Police, Patna, who would be the disciplinary authority in this case by virtue of Article 311 (1) of

the Constitution of India, Rules 825 © and 656 of the Bihar Police Manual and may proceed further in the matter.

6. It will be open for the petitioner to take all other grounds in the departmental proceeding before the Inspector General of Police, Patna.

7. With the aforesaid liberty, the writ application is allowed.

(Samarendra Pratap Singh, J.)

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