

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20698 of 2013

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Rajiv Ranjan Singh, S/o Late Dinbandu Singh, Resident of Village-
Neknam Tola, P.S- Barhara, Arrah, District- Bhojpur, At Present Residing
At Shastri Nagar Road No. 4, Near Central Jail, P.S- Rampur, District-
Gaya.

.... Petitioner/s

Versus

1. The State Of Bihar through the Home Commissioner, Bihar, Patna.
2. The Director General Of Police, Bihar, Patna.
3. The Inspector General Of Police (Head Quarter) , Bihar, Patna
4. The Deputy Inspector General Of Police (Personnel & Administration),
Bihar, Patna.
5. The Inspector General Of Police, Muzaffarpur Range, Muzaffarpur.
6. The Deputy Inspector General Of Police, Champaran Range, Bettiah.
7. The Superintendent Of Police, Motihari.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailendra Kumar Verma

For the Respondent/s : Mr. Kaushal Kishor, AC to GP 23

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL ORDER

3 02-03-2016 The petitioner, a retired Sub- Inspector of Police, seeks
quashing of order, dated 22.01.2013 (Annexure-11) passed by the
Deputy Inspector General of Police, Champaran Range, Bettiah,
whereby and whereunder he has been compulsorily retired from
his service.

Before I consider the rival submissions of the parties, it
is necessary to notice the facts of the case in short.

The petitioner was earlier compulsorily retired vide
order, dated 31.03.2011 primarily on the recommendation of the
Departmental Promotion Committee (for short “the DPC”). He
challenged the order on the ground that it is impermissible to
compulsorily retire a police personnel on the recommendation of



the DPC, which would be relevant for consideration of promotion. This Court vide order dated 20.04.2012 passed in C.W.J.C. No. 6034 of 2012 for the reasons assigned in C.W.J.C. No. 5884 of 2012 set aside the order, compulsorily retiring the petitioner. Incidentally, C.W.J.C. No. 5884 of 2012 was filed by another Sub-Inspector of Police, who was too compulsorily retired by the same order, dated 31.03.2011. The learned Single Judge in C.W.J.C. No. 5884 of 2012 observed that the order of compulsory retirement, passed in violation of Rule 854A of Bihar Police Manual, would not be sustainable in law. The order, dated 19.04.2012 passed in C.W.J.C. No. 5884 of 2012 is quoted in extenso for easy reference in this case:-

“Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order of compulsory retirement dated 27.02.2011.

Various submissions have been made from both sides on the issue of the service record and that compulsory retirement was not justified, conversely that it was justified. The Court does not consider it necessary to go into those aspects and the issues are left open for consideration at an appropriate time since the Court finds that the writ application can easily be disposed off on another limited question of procedure.

Rule 854 A of the Bihar Police Manual, 1978 deals with compulsory retirement. Rule 854A(2) reads as follows:-

“ Under rule 74(b) of Bihar Service Code, 1952, the appointing authority concerned may after giving a Government servant at least three months’ notice in writing or three months’ salary in lieu thereof require him in public interest to retire from

service on the date on which such a Government servant completes 30 years of continuous service or attains 50 years of age”

The respondents issued a show cause notice to the petitioner on 10.02.2011 granting him 10 days time to file reply. The impugned order has been passed thereafter on 27.02.2011.

It does not meet the requirement of three months notice and does not mention that in lieu thereof he was being paid three months salary. The impugned order dated 27.02.2011 in its present form is therefore held to be not sustainable suffering from grave irregularity of procedure. It is accordingly set aside.

The application is allowed.”

It appears that in light of order, dated 19.04.2012, the respondents complied with the mandatory requirement of Rule 854A of Bihar Police Mannual and again passed the order compulsorily retiring the petitioner. It would appear from the impugned order that the petitioner has been compulsorily retired from service on the ground that he has rendered himself inefficient and his performance is unsatisfactory and not upto the mark.

The petitioner assails the impugned order dated 22.01.2013 as having been passed again on the recommendation of the DPC. Besides this, the respondents have adopted pick and choose method, in so much so the persons with lesser merit and having more serious charges have been let off and allowed to continue in service.

On the other hand, counsel for the State submits that this

time the impugned order has not been passed on the recommendation of the DPC.

I have heard learned counsel for the parties. I am unable to accept the submission of the learned counsel for the petitioner that the impugned order has been passed on the recommendation of the DPC. The impugned order merely refers to the past sequence, that earlier petitioner was compulsorily retired on the recommendation of the DPC which order was quashed by this Court. On remand, after following the requirement of Rule 854A of Bihar Police Mannual, the case of the petitioner was again considered and finding his case akin to a dead wood, was compulsorily retired from service.

Rule 74(b) of the Bihar Service Code vests right with the appointing authority to compulsorily retire a government servant, if it considers that his efficiency or conduct is not such as to justify his/her retention in service. I find the impugned order in consonance with provisions of Rule 74 of Bihar Service Code and no ground to interfere with it.

The writ application is accordingly dismissed.

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(Samarendra Pratap Singh, J)

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