

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13328 of 2014

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Surendra Kumar, son of Late Sarju Prasad, resident of Village & P.O. - Ahirauli, P.S. Buxar Industrial Area, Dist. Buxar.

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Ministry of Home, Government of Bihar, Patna.
2. The Director General of Police, Government of Bihar, Old Secretariat, Patna.
3. The Inspector General of Police, Bihar Police Headquarters, Patna, Bihar.
4. Deputy Inspector General of Police, Saran Region at Chapra.
5. The Superintendent of Police, Dist, Saran at Chapra, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chakrapani,
Mr. Ambuj Nayan Chaubey
Mr. Amit Kumar
Mr. Vikash Kumar

For the Respondent/s : Mr. Prashant Kumar, AC to GP-8

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

3 20-06-2016 The petitioner was awarded punishment in the nature of confiscating increments in salary for two years treating it equivalent to three black spots by the Superintendent of Police, Saran at Chhapra, pursuant to the departmental proceeding. The charge was that the petitioner was caught, while accepting bribe of Rs.1,000/-.

The petitioner is aggrieved by the order, dated 29.05.2014, passed by the Director General of Police,

Bihar, Patna, in exercise of its power conferred under Rule 853-A of the Bihar Police Mannual, whereby he has awarded the punishment of dismissal from service.

Learned Counsel submits that the Director General of Police would not have the power to *suo moto* decide the punishment under Rule 853-A, after lapse of four years. He submits that the power is to be exercised within a reasonable period. He next submits that in the case of **Anjani Kumar Singh Vs. State of Bihar and others**, reported in **2001(4) PLJR 177**, exercise of such power by the D.G.P., after lapse of three years, was held to be unreasonable. He submits that in the instant case, such power cannot be exercised after lapse of three years.

This Court, for the present, need not go into the issue as to whether the Superintendent of Police, Chhapra, was competent to award punishment to an Officer of the rank of Sub-Inspector of Police and would limit itself to the relief claimed in this writ application.

I am of the considered view that the power of review under Rule 853-A of the Bihar Police Mannual,

ought to have been exercised within a reasonable period. Exercise of such power after a delay of four years, cannot be termed to be reasonable.

In this view of the matter, the impugned order passed by the D.G.P., Chhapra, would not be sustainable in law and is accordingly, set aside.

The petitioner would be reinstated in service forthwith, prospectively. It is made clear that at the same time, the prospective reinstatement would not, in any way, be considered a break in service for the pensionary benefits.

The writ application is allowed to the extent mentioned above.

(Samarendra Pratap Singh, J)

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