

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20480 of 2013

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Prem Shankar Singh, son of Jamadar Singh, resident of Village- Jaunapur, Police Station- Patori, District- Samastipur, Ex-Police Sub-Inspector, posted as Officer-in-Charge, Bela Police Station, District- Sitamarhi

.... Petitioner

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Muzaffarpur Zone, Muzaffarpur
4. The Deputy Inspector General of Police, Tirhut Range, Muzaffarpur
5. The Superintendent of Police, Sitamarhi
6. The S.D.P.O.-Cum-Conducting Officer, Pupri, District- Sitamarhi

.... Respondents

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Appearance:

For the Petitioner : Mr. Amrit Abhijat
Mr. Manoj Kumar Gupta
Mr. Upendra Yadav, Advocates.
For the State : Mr. Ashok Kumar Pathak, AC to GP-XXI

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 18-08-2017

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The present writ petition has been filed for the following reliefs:

(i) For quashing the order dated 16.03.2012 passed by respondent no. 4 whereby the petitioner's services as Sub-Inspector of Police, posted as officer-in-Charge, Bela Police Station, District Sitamarhi has been dismissed.

(ii) For quashing the order dated 12.11.2012 passed by respondent no. 3 whereby appeal preferred by the petitioner against the order dated 16.03.2012, has been rejected.

(iii) For quashing the order dated 30.04.2013 passed by



respondent no. 2 whereby the petitioner's Memorial Appeal has been rejected.

(iv) For a direction to the respondents to reinstate the petitioner to his post of Sub-Inspector of Police as he held at the time of termination dated 16.03.2012

(v) For a direction to the respondents for payment of salaries and other benefits for the period from his date of termination till the date of his reinstatement after regularization of the petitioner's services.

3. The short facts of the case according to the petitioner are that while working as Sub-Inspector of Police and discharging the functions of Officer-in-Charge, Police Station- Bela, District- Sitamarhi, he was arrested on 28.05.2009 by a Vigilance team on the allegation that he was receiving a bribe of Rs. 5,000/- from one Ramashish Mahto for registering an F.I.R. The petitioner's services were suspended by order dated 02.06.2009 passed by the Superintendent of Police, Sitamarhi (Respondent No. 5) and who subsequently by his order dated 30.06.2009 framed charges against the petitioner and started Departmental Proceeding No. 43 of 2009, appointing Ram Chandra Manjhi, S.D.P.O., Pupri, District- Sitamarhi as Conducting Officer.

4. Without going into the detailed facts of the case, learned counsel for the petitioner at the very outset questions the validity of the departmental proceeding on grounds that no Presenting Officer was appointed for purposes of the said proceeding. It is stated that the functions and duties of the Presenting Officer were also



discharged by the Conducting Officer himself and thus the entire departmental proceeding stands vitiated. Reliance is placed on a decision of this Court in C.W.J.C. No. 15089 of 2016 (*Imteyaz Jhankar Vs. The State of Bihar and Ors.*) in support of such submission.

5. Learned counsel for the State has not been able to controvert the stand of the petitioner and is unable to show that in fact a Presenting Officer was appointed to conduct the proceedings on behalf of the Department.

6. Having heard the parties and on a consideration of the materials on record, this Court is of the view that the writ petition can be disposed of on this preliminary ground itself. This Court in *Imteyaz Jhankar's case (supra)* considered this aspect of the matter in considerable detail and took note of various judicial decisions, both of the Apex Court as well as of this Court, before concluding that the order of dismissal in such circumstances was rendered illegal and was accordingly quashed.

7. Having regard to the legal position, therefore, the writ petition stands allowed and the impugned orders are set aside with a direction to the respondents to reinstate the petitioner to his post of Sub-Inspector of Police as he held at the time of his termination dated 16.03.2012, with all consequential benefits.

8. It is made clear that the present judgment is being passed on this preliminary ground alone, without considering the



merits of the other contentions and submissions of the petitioner.

9. It is further made clear that the respondents shall be at liberty to proceed afresh in the matter, if so advised, in accordance with law.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.08.2017
Transmission Date	N.A.

