

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8261 of 2014

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1. Rajendra Paswan, Son of Algu Paswan, Resident of Village Saraon,
Police Station- Natwar, District- Rohtas at Sasaram

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Shahabad Range, Derhi-on-Sone, Rohtas at Sasaram.
4. The Superintendent of Police, Bhojpur at Ara.
5. The Deputy Superintendent of Police (2nd) Bhojpur at Ara.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gopal Swaroop Dubey

For the Respondent/s : Mr. Kundan Bhadur Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

4 03-11-2017 Heard both sides.

The petitioner by filing this writ petition seeks quashing of the order, dated 25.12.2004, as contained in Memo No.2644, passed by the Superintendent of Police, Bhojpur, Annexure-2 whereby the petitioner has been dismissed from service and also for quashing the consequential order, dated 27.07.2011, as contained in Memo No.699 in appeal, Annexure-5 and the order passed in memorial by the D.G.P. on 06.08.2012 contained in Memo No.2420.

Mr. Kamal Nayan Choubey, the learned senior counsel for the petitioner submits that the petitioner was



proceeded on the charge that on 15.10.2000, the petitioner is alleged to have dragged the victim in a bush and attempted to outrage her modesty. The victim did not name the petitioner in the F.I.R. During the course of trial, the victim entered into compromise and the petitioner was acquitted on 05.09.2009 vide order passed by the learned Judicial Magistrate, 1st class, Ara in G.R. Case No.2792 of 2000. The petitioner has filed CWJC No.6555 of 2010 against the order of the Appellate Authority on the simple ground that the same D.I.G. was S.P. who dismissed the petitioner from his service and after promotion he heard the appeal against the order passed by himself. On such ground, this Court vide order dated 12.01.2011 directed the petitioner to present the appeal before the Director General of Police who in turn transferred the appeal before the Appellate Authority. Thereafter, the appeal of the petitioner was also dismissed and the Director General of Police also dismissed the memorials. It is submitted that this Court vide order dated 12.01.2011 observed that the petitioner shall be at liberty to bring to the notice of the Appellate Authority about the subsequent development and the fact that the petitioner has been acquitted in the case registered at the instance of the complainant-lady. But neither the Appellate Authority nor the D.G.P. while disposing of the appeal and



memorials of the petitioner took care of the order of this Court and the complainant was not called for, for her examination in order to verify the veracity of her truthfulness of complaint.

The learned counsel for the State however, submitted that sufficient opportunity was given to the petitioner and there is no illegality in the departmental proceeding as well as in the order of the Superintendent of Police.

Having considered the facts, I find that this Court, vide order dated 12.01.2011, passed in CWJC No.6555 of 2010, gave liberty to the petitioner to bring this fact before the Appellate Authority that the petitioner was acquitted and the victim, who had earlier lodged the complaint against the petitioner, compromised the case. The Appellate Authority shall be at liberty to examine the victim but the Appellate Authority did not take any step for examination of the victim. Moreover, the petitioner has already been acquitted of the charge. The victim disclosed that she could not identify the person who tried to outrage her modesty. On the same and similar facts, on which the petitioner was proceeded in criminal case, departmental proceeding was also held. Hence, I find that the D.G.P. has not considered the subsequent fact of the acquittal of the petitioner in a criminal case and passed the order.

In view of the aforesaid fact, the order passed by the



Director General of Police is set aside and the matter is remitted to the Director General of Police to consider the case of the petitioner after taking into consideration subsequent development that the petitioner was acquitted in criminal case and pass order afresh in accordance with law.

Accordingly, this writ petition is allowed as aforesaid.

(Prabhat Kumar Jha, J)

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