

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11206 of 2013

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Dina Nath Kumar S/O Yogendra Chauhan R/O Vill.- Sabbalpur, P.S.- Chandi,
District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Home Secretary, Govt. Of Bihar, Patna.
2. Director General, Cum Inspector General Of Police, Bihar, Patna.
3. Deputy Inspector General Of Police, B.M.P., Central Zone, Patna.
4. Commandant, M.M.P., Arrah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Yash Singh
For the Respondent/s : Mr. RISHIRAJ SINHA

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 26-02-2018

Heard learned counsel for the parties.

This writ petition under Article 226 of the Constitution of India has been filed for setting aside the order dated 09.12.2011 passed by the Commandant, Mounted Military Police, Arrah, by which the petitioner was dismissed from the post of constable in Mounted Military Police, Arrah, order dated 21.08.2012 passed by the Appellate Authority, Deputy Inspector General of Police, Central Zone, B.M.P, Patna, dismissing the appeal of the petitioner as well as order dated 19.12.2012 passed by the Director General of Police dismissing the memorial of the petitioner.

Petitioner was selected for appointment as constable in Mounted Military Police, Arrah, by Central Selection Board, Bihar, Patna on 22.08.2011. Petitioner was appointed as constable



on purely temporary basis with condition that his service could be terminated without giving any information, if his character certificate was found negative or defective. The petitioner joined his duty on 02.09.2011 and character verification report was called for from the Superintendent of Police, Nalanda, in respect of petitioner vide letter dated 09.09.2011 by the Commandant Mounted Military Police, Arrah, as Nalanda is the home district of petitioner. The Superintendent of Police, Nalanda, sent the character verification report dated 18.10.2011, and it was informed that the petitioner was named accused in Chandi P.S. Case No. 90 of 2008 instituted under Section 304(B), 328/34 of the Indian Penal Code and chargesheet has been submitted against the petitioner. Petitioner had submitted self-declaration character verification form at the time of joining but he did not inform about the criminal case registered against him vide Chandi P.S. Case No. 90 of 2008 instituted under Sections 304B, 328/34 of the Indian Penal Code in column no. 7 and 8 of the verification form. Column no. 7 and 8 were kept blank by the petitioner. This fact was knowingly concealed by the petitioner to deceive the department. Rule 668(A) of Police Manual envisages that every new appointment will be done on probation and the appointing authority can terminate the appointee directly at any time without



fulfilling the formalities stated in Rule 668(A), if it finds that the appointee does not fulfill the eligibility criteria seems to be unfit for that appointment. According to the condition of appointment respondent no. 4 is empowered to terminate the service of petitioner without giving any information but in the present case an explanation was called for from the petitioner on sympathetic ground vide memo dated 22.11.2011 and one week time was given to the petitioner to submit his explanation but he did not submit his explanation within two weeks. The character verification report of petitioner was found negative and defective and the petitioner was found guilty of concealing the facts, as such under Rule 668(A) of the Police Manual, respondent no. 4 dismissed the petitioner from service on 18.10.2011. At the time of dismissal, the Sessions trial against the petitioner arising out of Chandi P.S . Case No. 90 of 2008 was pending against the petitioner, however, subsequently by judgment and order passed by Sessions Court, the petitioner was acquitted of the charges. The petitioner thereafter filed appeal before the respondent no. 3, D.I.G., after his acquittal in criminal case, and the appellate authority after going through the entire case and order of acquittal upheld the order of disciplinary authority and dismissed the appeal of the petitioner. Petitioner preferred memorial against the appellate order before the D.G.P., respondent



no. 2 and after going through the memorial and materials available on record, the same was dismissed by the D.G.P. Respondent no. 2, D.G.P. further held that reinstatement of petitioner can be done only after appeal against the order of acquittal is decided. The petitioner was dismissed from service not on the ground that at the time of his appointment, he was accused in a criminal case, but he deliberately suppressed the fact of his implication. The verification form submitted at the time of joining and leaving the column blank where he had to give information that if he is accused in a criminal case or any criminal case is pending against him and he left those columns blank in order to deceive his employer and when the appointing authority received the information from the Superintendent of Police, Nalanda, regarding his involvement in criminal case, he was dismissed from service because of suppression of fact and misrepresentation with respect to his involvement in a criminal case at the time of his appointment. He was under probation and was not a confirm employee, as such there was no requirement of holding the full fledged departmental proceeding against him. There was all likelihood that if he had given correct information in his verification form about his involvement in a criminal case under Section 304B of the IPC, which is a heinous crime, he would not have been permitted to join



as constable as he was unsuitable for the post being accused and facing trial in a heinous crime. After his acquittal, petitioner could have been appointed after going through the order of acquittal and finding of the criminal court if acquittal was a clean acquittal or was given benefit of doubt but since dismissal was not on account of his involvement in a criminal case, but on account of suppression of material fact at the time of joining, no benefit can be granted to the petitioner after his acquittal in the criminal case. the petitioner had left the relevant column blank and stated nothing in the said column, as such the respondents can have some sympathy towards him as he had not given any false information but had left the column blank. The order of D.G.P. that his case for appointment should be considered, after appeal filed against him is decided, cannot be sustained. At the present time, the petitioner is not a convicted person and there is no impediment in his reinstatement subject to result in criminal appeal filed against the order of acquittal.

Considering the facts and circumstances of the present case, petitioner is directed to file representation before the respondent no. 2, D.G.P., Bihar, in view of the fact that the petitioner had left the relevant column blank and had not written anything in the said columns, although it was an attempt to deceive his employer by



leaving the column blank but since the petitioner has been acquitted in criminal case and at present is not a convicted person, his representation for reinstatement may be considered by the respondent no. 2 and he will pass a speaking order on the representation filed on behalf of the petitioner within three months from the date of receipt of the representation of the petitioner along with a copy of the order passed by this Court.

With the aforesaid observation and direction, the writ petition stands disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.03.2018
Transmission Date	N.A.

