

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16298 of 2004

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Janmejaya Ojha, s/o Sri Chandrakant Ojha, r/o vill-Simariya Ojha Patti, PShahpur,
Dist-Bhojpur

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Home (Special Police)
Bihar, Patna
2. The Director General of Police-Inspector General of Police, Bihar, Patna
3. Deputy Inspector General of Police, Central Range, Patna
4. Senior Superintendent of Police, Patna
5. Assistant Inspector General of Police (Inspecting) Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Respondent/s : Mr. (GP7)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 18-08-2018

1. The present petition has been filed for quashing the order dated 30.12.1996 passed by the Senior Superintendent of Police, Patna, whereby and whereunder the services of the petitioner has been terminated. The petitioner has further prayed for quashing of the appellate order dated 21.10.1998 as also the order dated 19.04.2004 passed by the Deputy Inspector General of Police, Central Range, Patna in appeal memorial.

2. The brief facts of the case are that a disciplinary proceeding was initiated against the petitioner herein for being absent in an unauthorized manner in between the period 22.05.1991 to 05.12.1991. The petitioner, in his reply, has submitted that on account of certain mental problem, he could not attend his duties. Thereafter,



the Inquiry Officer had submitted the inquiry report dated 26.04.1995, wherein it was observed that the petitioner himself had accepted his absence on account of him being mentally ill. The disciplinary authority i.e the Senior Superintendent of police had then passed the order dated 30.12.1996, whereby and whereunder the petitioner was dismissed from service. The appeal filed by the petitioner was also dismissed and thereafter, the appeal memorial was also dismissed.

3. The learned counsel for the petitioner has raised a short point for consideration to the effect that punishment of dismissal inflicted upon the petitioner is disproportionate to the charge leveled against the petitioner.

4. *Per contra*, the learned counsel for the respondents has submitted that there is neither any error in the conduct of entire departmental proceeding nor the present case is a case where the petitioner has denied the incident/ charges.

5. I have heard the learned counsel for the parties and perused the records. Upon taking a holistic view of the entire matter in an equitable jurisdiction under Article 226 of the Constitution of India, this Court is of the opinion that it would be just and appropriate to quash the order of punishment dated 30.12.1996 on the ground that the punishment of dismissal inflicted upon the petitioner is disproportionate to the charge leveled against the petitioner herein.



Accordingly the order of punishment dated 30.12.1996, appellate order dated 21.10.1998 and the appellate memorial order dated 19.04.2004 are set aside, however on the following terms, to which the learned counsel for the petitioner has agreed and conceded to :-

(I) The petitioner would not be entitled to any back wages upon reinstatement.

(II), The Senior Superintendent of Police, Patna shall constitute a medical board for the purposes of examining as to whether the petitioner is mentally and physically fit for being reinstated in the police service and in case the medical board finds the petitioner to be fit, both physically and mentally, then the petitioner would be reinstated in service.

6. The writ petition is disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.08.2018
Transmission Date	NA

