

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9797 of 2017

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Sunil Singh S/o Shri Ram Chhabila Singh Resident of Village- Ankorhi, P.S. Bagen, District- Buxar(Bihar).

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Home Secretary Government of Bihar, Secretariat Patna.
3. The Director of General of Police, Government of Bihar, Secretariat Patna.
4. The Deputy Inspector General of Police, Shahabad Zone at Dehari at Sone.
5. The Superintendent of Police, Buxar.
6. The Inspector Dumaraon-cum-Enquiry Officer, District- Buxar.
7. The Inspector Cum S.H.O. Buxar Town Police Station, Buxar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 9724 of 2017

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Sushil Kumar Son of Rang Bahadur Singh, Resident of Village- Nimia, Police Station- Agrer, District- Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Deputy Inspector General of Police, Shahabad Range, Dihri-on- Sone
4. The Superintendent of Police, Buxar

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 10669 of 2018

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Amarjeet Singh Yadav, Son of Sri Gopal Singh Yadav, Resident of Village Darauli P.S.- Jamania, District- Ghazipur (Uttar Pradesh).

.... Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home (Police), Bihar, Patna.
2. The Principal Secretary, Department of Home (Police), Bihar Patna.
3. The Director General & Inspector General Of Police, Bihar, Patna.
4. The Inspector General of Police, Patna Zone, Patna.
5. The Deputy Inspector General of Police, Shahabad Range, Dehri-on-Sone.
6. The Superintendent of Police, Buxar.
7. The Deputy Superintendent of Police, Sadar, Buxar.



8. The Station House Officer, Buxar Town Police Station, Buxar.

.... Respondent/s

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Appearance :

(In CWJC No.9797 of 2017)

For the Petitioner/s : Mr. Phulen Yadav, Advocate
Mr. Banbari Sharma, Advocate

For the Respondent/s : Mr. Sheoshankar Prasad-SC8

(In CWJC No.9724 of 2017)

For the Petitioner/s : Mr. Satya Prakash, Advocate
Mr. Bindhyachal Singh, Advocate
Mr. Avinash Kumar, Advocate

For the Respondent/s : Md. Nadeem Seraj-GP5

(In CWJC No.10669 of 2018)

For the Petitioner/s : Mr. Manish Kumar No 13, Advocate
Mr. Rohit Kumar, Advocate

For the Respondent/s : Md. Nadeem Seraj-GP5
Mr. Dhurvendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 21-08-2018

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

In all the three cases, common issues have been raised and
with the consent of the parties all the cases are being heard
together and disposed of at the admission stage by this common
order.

For convenience, the facts of case of CWJC No. 9797 of
2017 are taken into consideration, whenever there will be need
the Court may take help of the facts mentioned in another writ
petition.

In the present case, petitioner is challenging the order vide
memo no.2015 dated 06.07.2016 (Annexure 3) issued by the



Superintendent of Police, Buxar, whereby and whereunder petitioners dismissed from service. Against the same, petitioner filed appeal before the Deputy Inspector General of Police, Shahabad Range, Dihri-on-Sone which was rejected vide memo no. 1635 dated 18.10.2016.

An interlocutory application vide I.A. No.5365 of 2018 has been filed by the petitioner by which he has challenged the order passed in memorial by Director General of Police vide Memo No. 4533/L-1 dated 11.04.2017.

The brief facts of the case are that the petitioner entered into service of Bihar Police Force, was discharging the duty of constable to the satisfaction of all superior. While posted in Buxar town on 24.05.2016, the petitioner and other police force had gone to pacify the agitating students outside the police station but subsequently the Officer Incharge-cum- Inspector of Police, sent a report to the Superintendent of Police, Buxar on 02.06.2016 stating therein that he had come to know that on 24.05.2016 the petitioner alongwith his other colleagues had conducted a raid in the house of one Bablu Chaudhary where gambling was going on, had apprehended two persons including one Rajendra Verma, he was released by the police after receiving the illegal gratification of Rs. 1,50,000/- led to



suspension of petitioner and others, later on they made confessional statement, SDPO submitted a report dated 04.06.2016 whereafter a proceeding was initiated against the petitioners and other associates. The inquiry proceeding was conducted and ultimately the petitioner and his colleague have been dismissed from services.

One Dharmendra Kumar who was Inspector of Police was also member of raiding party, was also put under suspension, later on, he was also proceeded departmentally ultimately dismissed from the service. His appeal and memorial were also rejected, the same was challenged in CWJC No. 470 of 2018 and this Court vide judgment and order dated 27.06.2018 quashed the order of disciplinary authority passed against Dharmendra Kumar.

Learned counsel for the petitioner submits that the case of the petitioner and Dharmendra Kumar are completely identical, as all were members of raiding party, raided the premises and illegal money was received by them and the extorted money was distributed to each of member of raiding party. This Court has allowed the writ petition on technical ground that the enquiry officer has not been conducted properly as basic procedure of the quashi judicial proceeding has not been followed, as in the



present case no witness has been examined from the side of prosecution, merely on the report of the Higher Authority that too has not been proved by the author of document as has not been examined. Each of the member of raiding party has been awarded the same punishment. This Court has set aside the order of punishment in the case of Dharmendra Kumar, as the matter is identical and this Court also finds that same irregularities have been committed by the Enquiry Officer, suffers from inherent defects, in such circumstances, the order of punishment dated 06.07.2016 and order of appeal dated 18.10.2016 as well as the order passed vide memo number 4532/L-1 dated 11.04.2017 are quashed. However the matter is remanded back to the competent authority and the competent authority, is at liberty to proceed with the matter.

Accordingly the order of punishment dated 06.07.2016 and order of appeal dated 18.10.2016 passed in vide C.W.J.C. No. 9797 of 2017 are quashed.

Accordingly the order of punishment dated 04.06.2016 and order of appeal dated 18.10.2016 passed in C.W.J.C. No. 9724 of 2017 are quashed.

Accordingly the order of punishment dated 12.08.2016 and order of appeal dated 05.10.2016 passed in C.W.J.C. No. 10669



of 2018 are quashed.

Accordingly all the writ petitions are allowed and petitioner will be granted the same benefits which have been granted to other.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.8.2018
Transmission Date	NA

