

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No 2295 of 2013

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Jaggu Chaudhary Son Of Late Nathuni Chaudhary Resident Of Village - Gayaspur,
P.O. - Maner, Police Station - Maner, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Director General cum Inspector General of Police, Bihar, Patna
3. The Deputy Inspector General of Police, Central Range, Patna
4. The Senior Superintendent of Police, Patna
5. The Senior Superintendent of Police, Ranchi, Jharkhand

.... Respondent/s

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For the Petitioner/s	:	Mr Anil Kumar, Advocate
For the S t a t e	:	Mr Ashok Kumar Pathak, AC to GP XXI

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 18-05-2018

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

2 The writ petition has been filed challenging the petitioner's dismissal from service as Constable. Pursuant to an enquiry, charge memo was issued against the petitioner alleging that while he was posted as Bodyguard attached with one MLA Mr Ram Nagina Singh, he had handed over his Service Revolver No 880 along with 18 rounds of ammunition to an unauthorized person on 13.01.1984 and on that date, he had left his post as Guard with the said MLA. On the same date, the said MLA was, thereafter done to death. On such allegations, the petitioner has been proceeded against.



The order of dismissal issued by the Senior Superintendent of Police was dated 25.03.1996. Petitioner, thereafter, moved the higher authority against the order of dismissal. The same was rejected on 25.05.1998 by the Deputy Inspector General of Police, Central Range, Patna. The Memorial of the petitioner preferred before the Director General –cum- Inspector General of Police has also been rejected under order dated 30.07.2005.

3 Against rejection of Memorial in the year 2005, the writ petition has been filed after delay of about eight years in the year, 2013. This Court, while admitting the writ petition, had observed that the delay in filing the writ petition is to be gone into at the time of final hearing of this case.

4 Learned counsel for the petitioner has submitted that the proceedings were not conducted in accordance with the principles of natural justice and that he has not been afforded an opportunity in the proceedings conducted against him. He has referred to the order of dismissal issued by the Senior Superintendent of Police dated 25.03.1996 and submitted that bare perusal of the same would show that the allegations and findings are that the petitioner had handed over his Service Revolver and 18 rounds of ammunitions to an unauthorized person. He submits that the said charges and findings are not correct inasmuch as it is his specific case before the Authority that he had handed over the arms and ammunitions to the MLA,



namely, Ram Nagina Singh with whom he was attached as Bodyguard. Regarding second charge of abandoning his post with the said MLA, he submits that he had gone to fetch some men of the MLA from his village under the orders of the said MLA. Accordingly, it is submitted by learned counsel for the petitioner that findings in respect of his handing over of Service Revolver and 18 rounds of ammunitions to an “unauthorized person” and of “abandoning his post” are not sustainable.

5 This Court, in view of the submissions made by the learned counsel for the petitioner, finds that the irresistible conclusion is that the petitioner, admittedly, had handed over his Service Revolver and 18 rounds of ammunitions to someone else. Whether it was the MLA Ram Nagina Singh or some other person, this Court would observe that the said person in no way can be considered as an authorized person to whom the petitioner could have had handed over the arms and 18 rounds of ammunitions. The arms and ammunitions were, admittedly, provided to him for discharging his duties as Constable and safe custody of the same was his responsibility. It is not expected from a Member of the Uniformed Service to hand over his arms and ammunitions to an unauthorized person. Admittedly, the petitioner has parted with the said arms and ammunitions. The fact that he had handed over possession of the same to the MLA with whom he had been posted as a Bodyguard does not absolve the



petitioner of the charge. In fact, the charge stands admitted.

6 It is also his admission that he had abandoned his post, though the same was said to be under the direction of the MLA himself.

7 Considering the stand taken by the petitioner, this Court would find that the arms and ammunitions could only be handed over to the authorized person and that petitioner should not have abandoned his post with the MLA without due intimation to/permission of the competent authority.

8 In view of the findings hereinabove, considering the admitted position, there is no occasion for this Court to exercise writ jurisdiction in favour of the petitioner; that also at such a belated stage. The case of the petitioner clearly suffers from delay and laches also inasmuch as he has approached this Court eight years after his Memorial was rejected and immediately one year thereafter, the petitioner had attained the age of superannuation.

9 In view of the consideration hereinabove, the writ petition is devoid of any merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.06.2018
Transmission Date	NA

