

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.5331 of 2019**

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Nirmala Kumari, D/o Shri Mehar Chand Das, resident of Village- Below, P.S.  
Barbigha, District- Shekhpura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary General Administration  
Dept., Bihar, Patna.
2. The Director General of Police, Bihar Maletary of Police, Bihar  
Government, Patna.
3. The Deputy Inspector General of Police Bihar Maletary of Police, Bihar  
Government Patna.
4. The Superintendent of Police, Bihar Government Rohtas.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Binod Pd. Singh  
For the Respondent/s : Mr. Manish Kumar (GP -4)

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**CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR**

**ORAL JUDGMENT**

**Date : 08-04-2019**

Heard the learned counsel for the petitioner and the  
State.

2. The petitioner, who is a Constable under  
probation, has been dismissed from service by order dated



17.11.2018 passed by the Commandant, BMP-2, Dehri, contained in Office Order No. 1296/2018.

3. The aforesaid order is under challenge.

4. From perusal of the impugned order, it appears that while filling up the form, the column with respect to "earlier civil / criminal case or imprisonment" was wrongly filled. This wrong statement was noticed by the enquiry officer who has appended a note on the aforesaid form filled by the petitioner. It is only on the aforesaid report that the petitioner has been dismissed from service for the offence of suppressing material facts with respect to her character.

5. Learned counsel for the petitioner has submitted that the order is not sustainable in the eyes of law for several reasons; the main amongst them being that the petitioner had not completed the period of probation and if at all her services had to be terminated, she could have been removed from service which would have had no further adverse consequences namely another employment; the other being that the column which is alleged to have been wrongly filled contains three questions entailing three different answers. The composite



framing of the question in Clause-7 of the form was misunderstood by the petitioner as she had never been to jail in the past nor was she a party in any civil proceeding. Though, admittedly, the petitioner was made an accused in a criminal case for minor offences but when the question was answered in the negative, there was no intention of the petitioner to mislead the employer.

6. It has further been submitted on behalf of the petitioner that the criminal case, namely, Barbigha P. S. Case No. 245 of 2017 has been filed against the petitioner and others by her aunt for a domestic/family dispute which was magnified disproportionately.

7. It has been submitted on behalf of the petitioner that since she was on probation, she could have been discharged from the service or refused permanent employment but not for the reason of providing an information to a vague question which ultimately was found to be wrong. If seen in correct perspective i.e. if the answer is limited to one part of the question, the answer cannot be stated to be wrong as the petitioner has never been arraigned as a party in any civil



proceeding or has ever gone to jail. Since the petitioner was only made an accused at the instance of her relative, it cannot be said that she is a convicted person and, therefore, her being allowed to remain in police force would be prejudicial to the interest of the efficient functioning of police force in general.

8. Apart from this, it has also been urged that this mistake which has been occasioned because of wrong framing of the question which was required to be answered, was not of such a magnitude that condonation could not have been thought of.

9. Learned counsel for the petitioner has drawn special attention of this Court to the fact that anybody who is held to be guilty of suppression of the fact, such suppression has to be verified and it has to be seen whether such an answer is to a precise and clear question. If the question is vague, no fault can be attached to an answer which ultimately is found to be wrong with respect to one part of the question. Otherwise also, it has been urged, an employer has a discretion in the matter and in the absence of any conviction having been recorded or implication of the petitioner in a case with serious



offences involving moral turpitude or heinous nature against human body under the Indian Penal Code, the employer or the disciplinary authority ought to take into consideration the special circumstances of the case, if any, while giving such information which has been found to be partially incorrect. That not having been done, the order impugned is absolutely mechanical and without adverting to the settled principles for deciding such petitions.

10. The sum and substance of the argument urged before this Court is that there was no deliberate suppression and merely on the ground of a wrong answer which was ultimately found to be wrong with respect to one part of the question, the petitioner could not have been removed from service.

11. However, this Court finds that the appeal which has been preferred by the petitioner before the DIG, has not yet been decided.

12. This Court, therefore, directs the Deputy Inspector General of Police (Respondent No. 3) to dispose off the appeal of the petitioner as expeditiously as possible,



preferably within a period of three weeks from the date of production/communication of a copy of this order. While deciding the appeal, all the grounds urged on behalf of the petitioner which has been noted in the present order shall be taken into consideration and an order shall be passed in accordance with law within the stipulated time-frame.

With the aforesaid observation / direction, this petition stands disposed off.

**(Ashutosh Kumar, J)**

skm/-

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