

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12883 of 2019

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Sintoo Kumar, son of Ramawatar Mandal, resident of Village- Athgama, P.O.- Akidattpur, Rayser, P.S.- Kharik, Dist.- Bhagalpur, PIN 853202.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar, Patna.
2. The Director General of Police-cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, W. Champaran, Range, Bettiah.
4. The S.P. W. Champaran (Bettiah).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha, Advocate
For the Respondent/s : Mr. Md. N.H. Khan (SC-1)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 08-07-2019

The petitioner seeks setting aside of the order dated 23.03.2019 contained in Memo No. 557/2019 issued under the signature of the Superintendent of Police, Bettiah whereby the services of the petitioner has been terminated on the ground of his having entered in service by adopting fraudulent means.

2. It has been submitted on behalf of the petitioner that he was appointed as a Constable after his appearing for the examination conducted by the Constable Selection Board. However, while he was on



leave from duty, it was alleged against him that he had employed another person to write in his place in the examination which fact was ascertained by matching his signature with the signature in the form which was filled up at the time of writing of the examination.

3. In order to test the correctness of the aforesaid allegation against the petitioner, the petitioner was asked to appear before the Selection Board but the petitioner did not appear on that date for his no plausible reasons.

4. It has been submitted on behalf of the petitioner that the notice to him to appear before the Selection Board was never served upon him.

5. Be it as it may, on his non-appearance before the Board, he was suspended and was subjected to a departmental proceeding with two charges viz. somebody else writing for him in the examination for selection of Constables and deliberately not appearing before the Selection Board when the petitioner was



specifically asked to appear with respect to an enquiry regarding fraudulent means for entering the job.

6. From the impugned order, it appears that the Inquiry Officer as well as the Presenting Officer were appointed and the Disciplinary Authority accepted the Inquiry Report in totality and terminated the services of the petitioner.

7. The learned advocate for the petitioner has submitted that he was never served a copy of the Inquiry Report nor his opinion/explanation was ever invited for the proposed punishment.

8. It appears from the records that with respect to use of fraudulent means in the examination, a F.I.R also has been registered in which the petitioner was made accused. There is no information provided in the writ petition regarding the stage of the aforesaid F.I.R lodged against the petitioner and perhaps others.

9. Nonetheless, in the departmental proceeding, before punishing the petitioner with the most harsh



punishment of termination of service, he was required to be given a copy of the enquiry report for him to respond to the opinion arrived at by the Inquiry Officer. That not having been done, the order impugned in the present petition cannot sustained in the eyes of law.

10. For the aforesaid reasons, the order dated 23.03.2019 contained in Memo No. 557/2019 issued under the signature of the Superintendent of Police, Bettiah is set aside.

11. The matter is remitted to the Disciplinary Authority viz. the Superintendent of Police, Bettiah, who shall serve a copy of the enquiry report to the petitioner and shall after inviting the explanation of the petitioner, shall pass a fresh order in accordance with law. The entire exercise be concluded within a period of four months from the date of production/receipt of a copy of this order.

12. Whether the petitioner shall be kept under suspension in the meanwhile would be the decision of



the Disciplinary Authority.

13. Needless to state that during the period the petitioner has remained under suspension, he would be entitled for the subsistence allowance.

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

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10/07/2019

