

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14493 of 2019

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Nitesh Kumar Mishra @ Nites Kumar Mishra S/O Late Madan Mohan Mishra Resident of village- Bhangaha, Lohiaria, P.S.- Chanpatia, District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General, Home Guard, Bihar, Patna.
2. The Director General, Home Guard, Bihar, Patna.
3. The Commandant, Home Guard, Headquarter, Bihar, Patna.
4. The Divisional Commissioner-cum-the Divisional Commandant, Home Guard, Muzaffarpur.
5. The Collector-cum-District Magistrate, West Champaran at Bettiah.
6. The Superintendent of Police, Bettiah, West Champaran.
7. The District Commandant, Home Guard, Bettiah, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the Respondent/s : Mr. Manish Kumar (GP-4)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 22-07-2019 The petitioner, a Home Guard Constable has been dismissed from service on account of displaying indiscipline behavior. The aforesaid order has been passed by the District Commandant, Home Guard, Bettiah, West Champaran vide order dated 09.05.2018 contained in Memo No. 306. Against the aforesaid order, the petitioner preferred an appeal before the Commandant, Home Guard, Headquarter, Bihar, Patna,



who in the first instance rejected the appeal on the ground of the same having been filed after the statutory period of thirty days. Later, on an application of the petitioner, the Appellate Authority directed/gave liberty to the petitioner to present a fresh application for his reinstatement before the District Magistrate, Bettiah.

This Court is at a loss to understand as to who is the Disciplinary Authority and under what capacity would the District Magistrate decide about the reinstatement of the petitioner as a Home Guard.

Apart from this, this Court notices that though an explanation had been sought for from the petitioner on the complaint by Inspector of Home Guard that the petitioner had shown unruly and indisciplined behavior but the order of termination does not indicate the reasons for rejecting the explanation of the petitioner. The Appellate Authority also has not adverted to the merits of the case and has also dubbed the order to be an unreasoned order/*Aakaran Adesh*.



Under the aforesaid circumstances, the order dated 09.05.2018 passed by the District Commandant, Home Guard, Bettiah, West Champaran dismissing the petitioner from service as well as the appellate order passed by the Commandant, Home Guard, Headquarter, Bihar, Patna vide order dated 15.03.2019, rejecting the appeal of the petitioner are set aside.

The matter is remitted to the District Commandant, Home Guard, Bettiah, West Champaran (respondent No. 7) for writing out a fresh order in accordance with law after taking into account the explanation of the petitioner. The aforesaid order shall be passed within a period of eight weeks of the receipt/production of a copy of this order.

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

(Ashutosh Kumar, J)

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