

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23494 of 2019

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Md. Mumtaz Khan, Son of Late Ale Khan, Resident of Mohalla-Near Masjid
Aliganj Road No. 22, P.S.-Chandauti, District-Gaya, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Sardar Patel Bhawan, Bailey Road, Patna, Dist-Patna.
2. The Additional Director General of Police, Headquarter, Sardar Patel Bhawan, Bailey Road, Patna, Dist-Patna.
3. The Deputy Inspector General of Police, Magadh Range, Gaya, Dist-Gaya.
4. The Deputy Inspector General of Police (Personnel), Old Secretariat, Patna, Dist-Patna.
5. The Superintendent of Police, Bagahan, Dist-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Awadhesh Kumar Mishra
		Mr. Ajay Kumar
For the Respondent/s	:	Mr. Md. N. H. Khan (SC-1)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 14-01-2020 Heard learned counsel for the parties.

2. If what has been submitted on behalf of the petitioner is to be accepted, use of abusive language against the superior officers of the police by a constable should not be treated to be such misconduct for which he should be removed from service. The submission is wholly misconceived and is fit to be rejected at the very threshold. It is a different matter that the present writ application has even otherwise no merit, in view of the admitted facts.

3. The petitioner was appointed as a constable and



while serving in the District of Bagha, he is said to have used abusive language in inebriated condition at the residence of the Superintendent of Police. He was physically lifted by the police personnel present there and he was carried to the police lines, on 09.11.1999. He was put under suspension for his misconduct. A departmental proceeding was initiated against him with the issuance of charge-sheet and Inquiry Officer was appointed, who in his report found the charge against the petitioner to have been proved. The petitioner was dismissed from service by an order dated 04.11.2001 passed by the Superintendent of Police, Bagaha.

4. Learned counsel for the petitioner states that an appeal was preferred against the said order, which too was dismissed. It transpires from the pleadings on record that a memorial was presented before the Director General-cum-Inspector General of Police, Bihar, which was dismissed by an order dated 06.06.2004.

5. This is an admitted fact that the petitioner did not challenge the orders passed by the disciplinary authority, appellate authority and the higher authority by filing an application before this Court. It seems that nearly ten years thereafter, he filed a review application before the Director



General of Police, which was dismissed on 19.11.2014. The petitioner again filed a mercy appeal before the Director General of Police for review of the order sometimes in 2017 mainly on the ground that nearly 150 constables have subsequently been reinstated by the then Director General of Police by giving them punishment of one black mark and, therefore, he was making the application for reconsideration of his case. He cited in his application an instance where on the application filed by the wife of the dismissed constable, Satyendra Singh, the Director General of Police, Bihar has ordered for his reinstatement. The said application filed by he petitioner in 2017 has been dismissed by the Director General of Police by an order dated 16.03.2018, which order is being assailed in the present writ application.

6. Learned counsel appearing on behalf of the petitioner has submitted that the treatment, which has been given to other constables recently by the disciplinary authority should also be given to this petitioner and he should be reinstated in service after setting aside the order of dismissal, in view of its own litigation policy of the State of Bihar.

7. In my opinion, this writ application is thoroughly misconceived. The final order was passed by the disciplinary



authority, the appellate authority and the Director General of Police in 2001 to 2004. The petitioner did not question the correctness of the said decision of the authorities. The Director General of Police could not have reviewed his order in the absence of any statutory power of review. The petitioner cannot seek parity on the ground of decision taken by the respondents against other employees in relation to altogether different incidents in different departmental proceeding.

8. This application is, accordingly, dismissed.

9. I was seriously contemplating imposition of cost to deter such frivolous litigation. I have refrained from doing so, keeping in mind the fact that the petitioner is a dismissed Government servant since 2001.

(Chakradhari Sharan Singh, J)

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