

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11097 of 2019

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Ranjeet Kumar son of Late Ravindra Prasad Sah R/o- Village- Nawagrahi,
P.S.- Muffasil, Near KaliMandir, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Old Secretariat, Bihar, Patna.
2. The Inspector General of Police, Bhagalpur Range, Bhagalpur.
3. The Deputy Inspector General of Police, Bhagalpur Range, Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur.
5. The Deputy Superintendent of Police-cum- Conducting Officer 1st, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Advocate
	:	Mr. Santosh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Manish Kumar, GP 4
	:	Mr. Ajay Kumar, AC to GP 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 13-12-2021

In the instant petition, petitioner has prayed for following relief/reliefs:

- “(i) The Appellate Order No. 519 dated 11.05.2019 issued by Deputy Inspector General of Police, Bhagalpur be set-aside whereby and whereunder the Appeal preferred by the Petitioner has been rejected.
- (ii) The impugned Order dated 05.03.2019 passed by the DGP, Police, rejecting the Appeal Memorial preferred by the petitioner be set-aside.
- (iii) The enquiry report dated 29.12.2017 submitted by the Deputy Superintendent of Police cum Conduction Officer be set-aside.
- (iv) Respondent Authorities be directed to reinstate the petitioner on the post of constable with all consequential benefits.”



The alleged allegations levelled against the petitioner is that petitioner and four others were stated to have demanded/accepted illegal gratification from the truck drivers at Toll Plaza, Vikramshila Bridge at Bhaglpur on 15.06.2017. The same was stated to have been video recorded. Based on video recording on 15.06.2017, a report was submitted on 16.11.2017 that the petitioner was also involved in the alleged demand and acceptance of illegal gratification from the truck drivers. Arising out of the aforesaid facts and circumstances disciplinary proceedings were lodged against the petitioner and others. The enquiry was concluded in imposition of penalty of dismissal from service by the Disciplinary Authority on 13.03.2018. Feeling aggrieved and dissatisfied with the order of the Disciplinary Authority petitioner preferred an appeal before the Appellate Authority on 06.04.2018 and it was rejected by the Appellate Authority on 11.05.2018. Hence the present petition.

Learned counsel for the petitioner submitted that there is no evidence relating to demand and acceptance of illegal gratification by the petitioner as is evident from video recording and it is a part and parcel of enquiry proceedings, therefore, imposition of penalty of dismissal from service would be too harsh and disproportionate to the alleged involvement in demand and acceptance of illegal gratification from the truck drivers. The Appellate Authority has also not apprised the aforesaid facts. It is further submitted that the



petitioner during his twenty years of service, he has earned 6 awards therefore, order of Disciplinary Authority and Appellate Authority are liable to be set aside.

Per contra, learned counsel for the respondent resisted the aforesaid contention and submitted no doubt there is no material evidence in respect of demand and acceptance of illegal gratification as is evident from the video recording, at the same time, he was involved with others in respect of demand and acceptance of illegal gratification at Toll Plaza, Vikramshila Bridge, Bhagalpur on 15.06.2017. It is further submitted that petitioner was punished with 10 minor penalties and 2 major penalties during his twenty years of service. In the light of these facts and circumstances, the petitioner has not made out a case so as to interfere with the Disciplinary and Appellate Authorities orders.

Heard learned counsels for the respective parties.

Petitioner was subjected to disciplinary proceedings in framing of charge sheet on 13.09.2017 by appointing the Deputy Superintendent of Police, Bhagalpur as Inquiry Officer. It was concluded in imposition of penalty of dismissal from service on 13.03.2018 and further appeal was rejected on 11.05.2018. Hence the present petition.

Counsel for the petitioner submitted that the alleged allegation is relating to demand and acceptance of illegal gratification which



was to be proved with reference to video recording dated 15.06.2017 in the disciplinary proceedings. Insofar as petitioner is concerned, there is no material information or video clipping that petitioner was demanded and accepted illegal gratification and the same has not been disputed by the official respondents. Therefore, what is required to be taken note of is only the involvement of the petitioner with others in respect of demand and acceptance of illegal gratification. When the official respondents have not disputed involvement of the petitioner directly in respect of demand and acceptance of illegal gratification to the truck drivers, in such an event imposition of major penalty like dismissal from service would be too harsh and the same has not been apprised by the Appellate Authority.

Having regard to the alleged charge read with the material evidence and imposition of penalty of dismissal from service and its acceptance by the Appellate Authority shocks the conscious of this Court insofar as imposition of major penalty of dismissal from service and the same has not been appreciated by the Appellate Authority. No doubt the petitioner was punished with 10 minor penalties and 2 major penalties, at the same time he has been awarded on 6 occasions. These things are required to be taken note of by the disciplinary authority before imposition of penalty after a due notice to the petitioner herein. In the light of these facts and



circumstances this Court is only interfering with the penalty of dismissal and Appellate Authority's order that imposition of penalty and its confirmation is too harsh having regard to absence of material evidence that he had demanded and accepted the illegal gratification.

Accordingly, Annexure 8 dated 11.05.2018 stands set aside. Disciplinary Authority is hereby directed to re-examine the entire material and proceed to impose penalty other than dismissal, removal and compulsory retirement. It is made clear that petitioner is not entitled to monetary benefits during the intervening period from the date of dismissal till passing of fresh penalty order read with reinstatement order.

With the above observation petition stands disposed off.

The Disciplinary Authority is hereby directed to pass fresh order within a period of three months from the date of receipt of this order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.12.2021
Transmission Date	NA

