

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8447 of 2020

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Tripurari Prasad Son of Late Raj Kumar Prasad Sinha Resident of Village-
Chandaura, P.s.- Kako, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Bihar, Patna
2. The Principal Secretary, Home Department, Bihar, Patna
3. The Special Secretary (Home) Police Department, Bihar, Patna
4. The Director General Board, through Director General of Police, Bihar, Patna cum Chairman
5. The Additional Director General of Police (Headquarter), Bihar, Patna Cum Member
6. The Additional Director General of Police, Crime Investigation Department and Weaker Section Wing, Bihar, Patna cum Member
7. The Inspector General of Police (Budget/Appeal/Welfare) Bihar, Patna cum Member Secretary
8. The Inspector General of Police (Headquarter), Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vinay Ranjan, Advocate
For the Respondent/s	:	Mr. Md.Nadim Seraj (GP-5)
	:	Mr. Shailesh Kumar (AC to GP-5)

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

7 14-12-2021 Heard learned counsels for respective parties.

In the instant petition petitioner has prayed for
following reliefs:-

*“That this is an application for issuance
of a Writ in the nature of certiorari to
quash the resolution dated 15.06.2020,
which has been taken by the Director
General Board (hereinafter referred as
DG Board), whereby and whereunder the
promotion granted to the petitioner from
the post of Police Sub Inspector to Police
Inspector and subsequent
recommendation for promotion from*



Police Inspector to the Cadre of Deputy Superintendant of Police vide letter no.2631 / XP dated 26.11.2018 has been withdrawn on the ground of Vigilance Case No.22/2006. (Special Case No.18/2006) which was pending at the time of granting promotion and further for issuance of writ in the nature of mandamus commanding and directing the respondent authorities to do not disturb the promotional post of the petitioner on the ground above 4 no. misrepresentation or fraud was played by the petitioner and further for issuance of any other appropriate writ or writs, order or orders it may deem fit and proper by this Hon'ble Court."

On 22.11.2021 the following order was passed:-

"Heard learned counsel for the parties.

At this juncture, learned counsel for the petitioner pointed out that during the pendency of the present petition the competent authority proceeded to withdraw the promotion by means of an order dated 22.07.2021. He has questioned the same by filing I.A. No. 01 of 2021. This Interlocutory Application is allowed.

In the result, the petitioner is hereby directed to carry out necessary amendment in the prayer incorporating to challenge to the Memo No.4919 dated 22.07.2021 before the next date of hearing.

In the meantime, the Director General of Police, Bihar, Patna who is the Chairman of the Director General Board is directed to file an affidavit that before passing of resolution dated



15.06.2020 whether petitioner was provided show cause notice with reference to the details of Vigilance P.S. Case No. 22 of 2006 and date of framing of charge or filing of charge-sheet of the criminal case, if any, so as to examine that before reversion from the post of Police Inspector and Police Sub-Inspector there is a compliance of Article 311 of the Constitution or not? Such affidavit be filed before the next date of hearing after serving a copy to the petitioner's counsel.

Relist the matter on 07.12.2021.”

Director General of Police, Bihar, Patna has filed supplementary counter affidavit. In paragraph 12, it is stated as under:-

“That it is further clarified that the DG Board in its meeting dated 15.06.2020 had withdrawn its earlier recommendation regarding petitioner's name for promotion from the rank of Inspector of Police to the rank of Deputy Superintendant of Police. That the same was done without obtaining clarification (show-cause) from the side of petitioner as Article 311(2) of the Constitution of India is applicable only during the conduction of Departmental Proceeding / Inquiry against a delinquent Government servant. Here, the matter pertains to resending the grant of promotion to natural justice. However, before the convening of the said DG Board, for ascertaining the status of the pending case against him, the petitioner Sri Tripurari Prasad himself was asked vide Letter No.2536/XP dated 13.09.2019 to provide detailed information of the



pending Vigilance case no.22/06 dated 18.04.2006 against him, on which he admitted the facts of the said case vide his Letter dated 11.11.2019.”

Merely issuing letter asking certain information from the petitioner vide letter dated 13.09.2019 do not satisfy that the petitioner has been provided an opportunity of hearing before reverting him from the post of Deputy Superintendant of Police to Inspector of Police to Sub-Inspector of Police, therefore, the petitioner has made out a prima facie case so as to interfere with the impugned order dated 22.11.2021 and it is set aside reserving liberty to the respondent-board to reconsider the petitioner reversion matter in the light of order of government order dated 11.09.2002 (paragraph 5) so as to convert the proposed reversion from Deputy Superintendant of Police to Police Inspector and further Police Inspector to Sub Inspector of Police to the extent that the petitioner is entitled to ad hoc promotion in the cadre of Police Inspector in terms of paragraph 5 of the order dated 11.09.2002 and further necessary action shall be taken to revert the petitioner from the post of Deputy Superintendant of Police to that of Police Inspector. Before taking such decision or pass such order, fresh notices shall be given to the petitioner in respect of the aforesaid issue and proceed to pass appropriate order in accordance with law after due consideration of the petitioner's explanation to be submitted against show cause notice to be issued along with aforesaid order dated 11.09.2012.



The above exercise shall be completed within a period of four months from the date of receipt of this order. Petitioner is entitled to monetary benefits from the date of reversion till date of passing of further orders on behalf of the official respondents.

Accordingly, the present petition stands allowed.

(P. B. Bajanthri, J)

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