

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8729 of 2020

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Ravi Shankar Kumar Son of Uma Shankar Singh Resident of- Ward No. 13,
Hetla Tol, Barat, P.S.- Sitamarhi, District- Nawada.

... .. 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 Inspector General of Police, Patna.
3. The Inspector General of Police, Government of Bihar, Patna.
4. The Director General of Police, Munger Division, Munger.
5. The Superintendent of Police, Begusarai.
6. The Deputy Superintendent of Police (HQ)-cum- Enquiry Officer,
Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mohit Shriwastava
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 22-11-2021

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

“i) For setting aside the Memo of Charge as contained in Memor No. 283 dated 29-01-2013 issued by the Superintendent of Police, Begusarai whereby departmental proceeding was initiated against the petitioner and Enquiry Officer was appointed but no presenting officer was appointed, framing of charge and initiation of departmental proceeding is hit by and in teeth of Rule 17 (14) of the Disciplinary Rules.

ii) For setting aside the Enquiry Report as contained in Memor No. 7945 dated 13.11.2014 whereby the Disciplinary Authority agreeing upon the Feelings of the enquiry officer dated 30.09.2014 found the charges proved against the petitioner.

iii) For setting aside the order contained in Memor No. 8963 dated 20.12.2014, issued by the Superintendent of



Police, Begusarai, whereby the petitioner has been dismissed from service with immediate effect i.e., 20.12.2014 and further forfeited the salary-allowance for the period from 07.06.2021 to 20.12.2014 on account of no work no pay because of suspension/ absconding/ judicial custody.

iv) For setting aside the order dated 12.09.2015 as contained in Memor No. 2305 passed by the Deputy Inspector General of Police, Munger Range, Munger whereby and where under appeal of the petitioner has been rejected affirming the order of dismissal.

v) For setting aside the order dated 08.04.2016 as contained in memo no. 2112 dated 11.04.2016 passed by the Director General-cum-Inspector General of Police whereby and where under Memorial Appeal of the petitioner has been rejected.

vi) The petitioner further prays that for setting aside the aforementioned order of dismissal and reinstatement in service with all consequential benefits as he has not been in gainful employment after his dismissal from service.

vii) For any other relief for which the petitioner may be deemed entitled to.”

One of the contention in support of petitioner's grievance is that disciplinary authority has not appointed presenting officer to present the case before the Enquiring Officer. In other words Enquiring Officer has played dual role of Enquiring Officer as well as Presenting Officer. Such a action of the disciplinary authority is in violation of sub-Rule 5 of Rule 17 of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

At this stage, learned counsel for the petitioner submitted that there is violation of Rule 17(14) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005, in so far as examination of witnesses by the Enquiring Officer. The present



case is squarely covered by the recent decision reported in ***Sonu Kumar Vs. State of Bihar, 2021 SCC online Pat.2225.***

In the light of these facts and circumstances, impugned orders are set aside and petition stands allowed reserving liberty to the disciplinary authority to proceed from the defective stage and complete inquiry proceedings within a period of six months from the date or receipt of this order.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.11.2021
Transmission Date	NA

