

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19688 of 2018

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Md. Ilham Son of Late Md. Zahid, Resident of Village- Banandha, P.S.-
Mufasil, District-Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Purnea Region, Purnea.
4. The Superintendent of Police, Kishanganj.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Baxi S.R.P. Sinha, Sr. Advocate Smita Prasad, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad – SC 8 Mr. Sanjay Kumar, AC to SC 8

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 26-04-2022

Heard learned counsel for the parties.

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

“(i) For quashing the order dated 30.06.2011 passed by the Superintendent of Police, Kishanganj by which the petitioner was dismissed from service with immediate effect on the ground of his immoral character based on the allegation of rape of a mad woman and scuffle



with the persons present at the relevant time in retaliation of being apprehended causing law and order problem as also lowering the image of police in connection with Pothia P.S. Case No. 24/2009 under Section 376 of the Indian Penal Code.

(ii) For quashing the order dated 07.10.2011 passed by Deputy Inspector General of Police, Purnea Region, Purnea by which the appeal preferred by the petitioner against his dismissal from service was rejected holding the allegation proved in the departmental proceeding.

(iii) For quashing the order dated 7.08.2012 passed by Director General of Police, Bihar, Patna by which the memorial of appeal filed by the petitioner against the appellate order was also rejected concurring with the findings of the departmental proceeding.

(iv) For quashing the order dated 27.08.2018 contained in memo No. 704/385794/L-1 passed by the Director General of police, Bihar, Patna by which the appeal, filed in pursuance of the order dated 22.06.2018 passed by the Hon'ble High Court in CWJC No. 5789 of 2013, has been rejected without appreciating the facts and circumstances as well as provisions of law and ignoring the same that the entire proceedings right from issuance of charge memo up to the submission of inquiry report on 12.08.2009, is unjust and illegal.

(v) For directing and commanding the Superintendent of Police, Kishanganj to reinstate the petitioner on the post of Constable in Police



Line, Kishanganj with effect from the date of dismissal i.e. 30.06.2011 with all consequential benefits.

(vi) For any other relief or reliefs to which the petitioner is entitled for in the facts and circumstances of the case.”

3. Petitioner was subjected to disciplinary proceedings and it was concluded in imposition of penalty of dismissal from service on 30th June, 2011. Further appellate authority's order dated 07.08.2012 of I.G.P. and 27.08.2018 of the D.G.P. confirmed the dismissal order.

4. The petitioner has raised the legal issue in respect of non compliance of various provisions of the disciplinary Rules. In fact, one of the contention is that presenting officer was not appointed and the same has not been disputed by the official respondents.

5. Learned counsel for the petitioner submitted that in identical matter, this Court in C.W.J.C. No. 19633 of 2014 (of the learned Single Judge) decided on 23.03.2022 in respect of non appointment of presenting officer which violates Rule 17 (5) (c) of Bihar Government Servants (Classification, Control & Appeal) Rules, 2005.

6. Accordingly, writ petition stands allowed in terms of order dated 23.03.2022 passed in C.W.J.C. No. 19633 of 2014.



7. The impugned orders dated 30.06.2011, 07.10.2011, 07.08.2012 and 27.08.2018 are set aside. Whatever direction given in the aforesaid decision stands applied in the present case. The disciplinary authority is hereby directed to take note and expedite the matter.

(P. B. Bajanthri, J)

(Rajeev Ranjan Prasad, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	28.04.2022
Transmission Date	

