

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1746 of 2022

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Rambachan Chaudhary, aged about 37 years, Gender- Male, son of Mantu Choudhary resident of Village- Rampur, Ward No. 03, P.S.- Sonhan, District- Kaimur (Bhabua).

... .. Petitioner

Versus

1. The State of Bihar through the Home Commissioner, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police Koshi Region, Saharsa, Bihar.
4. The Deputy Inspector General of Police, Koshi Region, Saharsa, Bihar.
5. The Superintendent of Police, Supaul.
6. The Deputy Superintendent of Police, Supaul.
7. The Enquiry Officer-Cum- Sub Divisional Police Officer, Birpur, Supaul.
8. The S.H.O. Trieveniganj Police Station, Supaul.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Shyam Bihari Singh, Adv.
For the State	:	Mr. Md. Nadim Seraj, GP-5

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 02-12-2022

Today being Friday, matters are being taken up through virtual mode, as per current procedure for hearing.

2. Heard learned counsel for the petitioner and learned State counsel.

3. The petitioner was found to be in an inebriated condition subjected to Breath Analyzer Test and after following procedure of conducting a departmental proceeding, was dismissed from the service of the respondent force. Since the petitioner's earlier writ petition has been disposed of in light of decision in the case of *Jawahar Kumar Singh* (supra), this Court considers it



appropriate to reproduce relevant extract of decision of this Court in the case of **Jawahar Kumar Singh** (supra), which reads as follows:-

“12. The power of punishment is always within the employers’ discretion and Courts do not normally interfere with where there is no infirmity with the procedure. However, weighing all the factors, viz., the nature of charges against the petitioner, the manner in which it is sought to be proved, no evidence of any past conduct of similar nature and perhaps lack of sensitivity in dealing with the case of the petitioner, this Court feels that the punishment is rather disproportionate. This Court says so for the reason that nothing but pandemonium is said to have been created and that also not during the period when the petitioner was on duty. This Court is conscious of the fact that the petitioner is an employee of a uniformed service; nonetheless the gravity of the misconduct is not such that he be dismissed from the service. This Court feels that an unduly harsh punishment has been meted out to the petitioner and that also when the charges were sought to be proved in a most rudimentary manner by relying upon the Breath Analyzer report, which report could well be wrong as well.

13. The grossly excessive/disproportionate punishment to them petitioner goads this Court in setting- aside the order of dismissal by the Deputy Inspector General of Police, Eastern Range, Bhagalpur (respondent No. 5) and the order passed in appeal by the Inspector General of Police, Bhagalpur Range, Bhagalpur (respondent No. 4) as well as the order rejecting the Memorial of the petitioner by the Director General of Police, Bihar, Patna (respondent No. 3).

14. The matter is, therefore, remitted to the Deputy Inspector General of Police, Eastern Range, Bhagalpur (respondent No. 5) for writing out a fresh order in accordance with law, taking



into account whether the petitioner has ever been charged of such offence and whether the charges against him have been conclusively proved and, if so, what would be the commensurate punishment vis-a-vis the nature of charge levelled upon him. The aforesaid order be passed within a period of eight weeks from the date of receipt/production of a copy of this order.”

4. It was in this light that petitioner’s earlier writ proceedings arising out of ***CWJC No. 5578 of 2021 (Rambachan Chaudhary vs. The State of Bihar & Others)*** was disposed on 25-03-2021, by recording the following order:-

“Without expressing any opinion on the merits of the aforesaid claim of the petitioner, the present writ application is disposed off with a direction to the respondents to scrutinize the fact and if it is found that the fact of this case is similar to that of C.W.J.C. No. 13549 of 2018 (Jawahar Kumar Singh versus State of Bihar & Ors), same treatment shall be extended to the petitioner by the respondents within a maximum period of two months from the date of receipt/production of a copy of this order.”

5. It is, thus, apparent that the matter was remitted for consideration on the ground of quantum of punishment and specifically with reference to the prior conduct of the petitioner whether he has been charged of any such offence and other such issues. Having considered the issue of quantum of punishment being disproportionate, the Superintendent of Police, Supaul has again passed an order on 20-06-2021, wherein, he has considered the fact that the petitioner has earlier also been found to be guilty



of certain lapses which have been taken note of. Paragraph Nos. 3 and 4 of the order, which reads as follows:-

“3 बक्सर जिला में बुनियादी प्रशिक्षण समाप्ति पश्चात् दिनांक- 22.12.14 को 05 (पाँच) दिनों का अनुमति अवकाश पैतृक जिला सुपौल में योगदान करने हेतु आदेश पत्र निर्गत किया गया था। अवकाश उपभोग कर दिनांक 28.12.2014 को योगदान पुलिस केन्द्र सुपौल में करना था, परन्तु दिनांक -02.01.2015 के अपराहण में 06 (छः) दिन पिछड़ कर किए। उक्त बरती गयी लापरवाही के लिए “काम नहीं तो वेतन नहीं ” के आधार पर 06 (छः) दिनों का वेतन भत्ता जप्त करते हुए उक्त अवधि को असाधारण अवकाश में समायोजित किया गया है। सुपौल जिलादेश सं०-37/2015 है ।

4. थानाध्यक्ष, सुपौल का ज्ञापांक 4064 दिनांक- 14.08.2019 के आलोक में गार्ड प्रभारी शोहित यादव द्वारा समर्पित आवेदन में उल्लेख किये हैं कि सिपाही -537 रामबच्चन चौधरी दिनांक - 13.08.2019 से फरार है । तथा इनका बराबर का ये स्वैया है। जो इनके कर्तव्यहीनता / स्वेच्छा चरित्र, एक अच्छे पुलिस कर्मी नहीं होने का आरोप है। गार्ड से फरार रहने के आरोप में दिनांक- 13.08.2019 के प्रभाव से सामान्य जीवन यापन भत्ता पर निलंबित करते हुए उनके विरुद्ध विभागीय कार्यवाही प्रारंभ किया गया है तथा निलंबन अवधि में इनका मुख्यालय पुलिस केन्द्र सुपौल होंगे। सुपौल जिलादेश सं०-1009/2019 (वि०जाचसं०- 83/19 प्रारम्भ) है। भविष्य में अपचारी अपना सेवा में दोबारा आते हैं तो इस विभागीय कार्यवाही को पुन संचालित कर निर्णय लिया जाएगा।”

6. Having considered these facts, the punishment of dismissal has been reiterated by the Superintendent of Police,



Supaul in terms of decision of this Court on petitioner’s earlier writ petition. The Court, therefore, does not find any infirmity in order passed by the Superintendent of Police dated 20-06-2021, as contained in Annexure-12 to the writ petition.

7. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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