

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7382 of 2021

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Naveen Kumar Choubey son of Ram Sagar Choubey resident of village and P.O. Rampura, P.S. Singhwara, District- Darbhanga, presently posted as Constable /805 in Dhangain Police - Station, District- Bhojpur at Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director, General of Police, Bihar, Patna.
2. The Inspector General of Police (Administration), Bihar, Patna.
3. The Superintendent of Police, Saran at Chapra, District - Saran at Chapra.
4. The Superintendent of Police, Bhojpur at Ara, District- Bhojpur at Ara.
5. The Station Head Officer, Dhangain Police - Station, District- Bhojpur at Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anita Kumari
	:	Shashi Bhushan Kumar Mangalam
For the Respondent/s	:	Mr. P.K.Verma (Ag)

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

Date : 10-02-2022

The matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. State counsel accepts notice for respondents.

3. Counsel for the petitioner is hereby directed to serve copy of the petition to the counsel for the State/respondents, if it is not already served.

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

“(I) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the



Respondent Authorities for payment of arrears of salary of the petitioner from 24.12.2002 to 30.04.2017 i.e. for the period in which the petitioner remained out of service because of his illegal dismissal before his retirement in service vide Saran District Order No.629 of 2017 issued under the signature of Respondent No. 3 and contained in his memo no. 1254 dated 21.04.2017 in view of the judgment and order dated 25.01.2011 passed by the Division Bench of this Hon'ble Court in L.P.A. No. 1693 of 2010.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities for payment of the aforesaid arrears of salary with interest on the ground that even though the petitioner was reinstated in service in 2017 after dismissal of the Special Leave Petition filed by the State before the Hon'ble Supreme Court against the judgement and order dated 25.07.2011 passed in L.P.A. No. 1693 of 2010, the respondents have deliberately not paid the arrears of salary to the petitioner though he was reinstated in service from the date of his dismissal itself.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner would be found entitled under the facts and circumstances of the case.”

5. Question of issuance of writ of mandamus under Article 226 of the Constitution in the present case is not warranted for the reasons that there is no demand before the competent authority like submission of representation/application followed by legal and statutory right. Apex Court in the case of *Mani Subrat Jain V. State of Haryana* reported in (1977) 1 SCC 486



deprecated for issuance of direction to official respondent in the absence of legal right and demand.

6. Accordingly, present petition stands dismissed, reserving liberty to the petitioner to prefer a detailed representation along with judicial pronouncements, if any, within a period of eight weeks from the date of receipt of this order. On receipt of such representation, the competent authority is hereby directed to examine the petitioner’s grievance at the earliest.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

