

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18798 of 2013

Mangal Kumar Singh @ Mangal Singh Son Of Mijetar Singh Of Village P.O.
Gangahar, P.S.- Muffasil, District- Bhojpur

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The D.G. Cum I.G. Of Police, Bihar, Patna
3. The D.I.G. Of Police, B.M.P. Northern Zone, Muzaffarpur
4. The Commandant, B.M.P. 7, Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mrigang Mauli, Sr. Adv Mr. Karandeep Kumar, Adv
For the Respondent/s	:	Mr. Madtivar Mishra, AC to SC-16

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 20-07-2022

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

Petitioner, a constable, was proceeded against on the basis of a Charge Memo, dated 25.10.1994. The allegation was that he along with one constable, Satish Kumar Singh, had assaulted two named persons at a tea stall and snatched an amount of Rs. 510/- from the picket of one of these two persons. The same incidence led to lodging of an FIR also.

Pursuant to the proceedings conducted against the petitioner, he has been held to be guilty of the allegations. Charges have been found to be proved and the punishment of dismissal has been imposed on the petitioner by an order dated 30.03.1996 by the Commandant, BMP-7, Katihar.



Learned senior counsel for the petitioner submits that certain events are very relevant to the petitioner's case. The co-accused, namely, Satish Kumar Singh facing identical allegations, has since been exonerated by the authorities. The petitioner has also been acquitted in the criminal trial arising out of the same set of allegations.

Apart from these two facts, it is further submitted that in the proceedings conducted against the petitioner, the allegations have been held to be proved without any material whatsoever. The finding, as per submission of learned counsel, is unsustainable on the ground of being perverse. In this background, a detailed point wise elaborate review has been preferred by the petitioner (Annexure-7 to the writ petition) on 05.09.2013 before the Deputy Inspector General of Police, Bihar Military Police, North Division, Muzaffarpur.

The learned senior counsel submits that the order passed on the petitioner's review is without considering the petitioner's claim of parity with the co-accused Satish Kumar Singh, who was facing identical charges arising out of the same incidence. Further, the fact of the petitioner's acquittal has also not been considered. In fact, none of the points raised by the petitioner, including the various precedents relied upon by the petitioner in his review application, has been considered by the Reviewing Authority. The



submission is that the order passed by the Reviewing Authority suffers from non-application of mind and the same is also unsustainable for non-assigning of reasons rendering the entire exercise of review, futile.

Learned State counsel has submitted that petitioner, being a police constable, is facing charges which are unbecoming of a police constable. Proceedings have been conducted in accordance with law.

After hearing the parties, this Court would consider it appropriate to reproduce the order of the Reviewing Authority passed on the petitioner's detail and elaborate review.

The relevant extract of the order reads as follows:

"मैंने संचिका में उपलब्ध अपील अभ्यावेदन आरोप प्रदर्श जाँच प्रतिवेदन साक्ष्य के बयान एवं कण्डिकावार टिप्पणी का सूक्ष्मतापूर्वक अवलोकन किया। अवलोकनोपरान्त अपचारी द्वारा समर्पित Acquittal order के आलोक में Review अपील अभ्यावेदन पर विचार करते हुए पूर्व में दिये गये आदेशांक - 1477 दिनांक 18.09.1997 को यथावत रखते हुए अपीलकर्ता द्वारा समर्पित अपील अभ्यावेदन को स्वीकृत करता हूँ।"

From perusal of the order itself, it is apparent that it shows non-application of mind. None of the points raised by the petitioner in the review appeal has been considered and there is no reason assigned in the order for rejecting the various claims raised by the petitioner, taken note of above. Non-assigning of reasons by the Reviewing Authority has in fact rendered the entire exercise of



review futile. Order is unsustainable in view of the settled legal position as per decision of the Hon’ble Apex Court in the case of *Kranti Associates (P) Ltd. v. Masood Ahmed Khan* reported in (2010) 9 SCC 496 which has reiterated the requirement of assigning reasons in such order having penal consequences.

Considering the settled legal position, the order of the Reviewing Authority, dated 18.09.2020 is unsustainable in law and is quashed.

The Reviewing Authority should consider the petitioner’s review afresh and pass reasoned and speaking order considering all the points raised by the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order, in accordance with law.

Writ application is allowed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.08.2022
Transmission Date	NA

