

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13686 of 2008

Ashok Kumar Sah, son of Sri Ramsworoo Sah, resident of village –
Agrahan, P.O. - Agrahan, P.S.- Haveli Khangpur, District- Munger, earlier
deployed as a Cook in Group Centre, C.R.P.F. (No. 850860081), Mokamaghat
(Bihar).

... .. Petitioner/s

Versus

1. Union of India, through D.G.P., C.R.P.F.
2. Inspector General of Police, B.S., C.R.P.F., Patna.
3. Deputy Inspector General of Police, C.R.P.F., Patna, Bihar, 25.
4. Additional Deputy Inspector General of Police, C.R.P.F., Mokamaghat,
Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Akshansh Ankit, Advocate
For the U.O.I.	:	Mr. Manoj Kr. Singh, CGC

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

Date : 25-08-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed

for following reliefs:-

“1. That the petitioner abovenamed seeks to crave the gracious indulgence of this Hon’ble Court for the issuance of appropriate writ(s)/order(s)/direction(s) as the facts and circumstances of the instant case may require so as to grant the following Reliefs:

(I) To quash the order dated 23.07.2007 as contained in Memo No. P8-03/06-Estb/02, issued under the pen and signature of respondent No. 4, whereby and whereunder pursuant to holding of departmental enquiry and on the basis of inquiry report the petitioner has been removed from service.

(II) To further quash the appellate order dated 25.01.2008 as contained in Memo No. P VIII AKS



(GCMKG)/07-EC-1, passed by respondent no. 3 by which the original order passed by respondent no. 4 has been upheld, in a mechanical and routine manner.

(III) To further quash the revisional order dated 5.07.2008 as contained in Memo No. RXIII-1/AK/08-BS-EC-III, issued under the pen and signature of respondent n.2, by which the orders passed by respondent Nos. 4 and 3 have been upheld maintaining the order of removal from service.

(IV) To grant the consequential benefits to the petitioner in shape of his reinstatement, continuous in service, arrears of salary AND/OR the petitioner may alternatively be reinstated and compulsorily retired from service thereby entitling him to receive all retiral benefits so that he may continue to lead a dignified and blemish less life as his only source of livelihood has been snatched putting his and family dependent's life to peril."

3. Petitioner was appointed as a Cook on 05.07.1985. He was alleged to have involved in a recruitment scam to the extent that he had accepted certain amount from a candidate for a particular recruitment. Such information is stated to have been received by one of the officer of the respondent through brother of the selected candidate. Based on the aforesaid allegation, petitioner was placed under suspension on 21.03.2006 and he was charge-sheeted on 20th April, 2006. In the enquiry, the alleged charge levelled against the petitioner



was stated to have been proved. To that effect enquiring officer's report was furnished to the disciplinary authority. The disciplinary authority proceeded to terminate the services of the petitioner on 23.07.2007. Thereafter, he had preferred appeal before the appellate authority and it was rejected on 25.01.2008. His revision petition was also rejected on 05.07.2008. Hence the present petition.

4. Learned counsel for the petitioner submitted that it is a case of no evidence. It is further submitted that alleged charged is based on hearsay evidence by an officer of the respondent. However, there is no corroborative evidence in respect of allege charge levelled against the petitioner. Therefore, it is a case of no evidence.

5. Per contra, learned counsel for the respondent resisted the aforesaid contentions and submitted that one of the officer of the respondent got secret information that the petitioner is involved in the alleged charge relating to acceptance of illegal gratification in the guise of helping a candidate in the process of recruitment which suffice to hold that charges levelled against petitioner is proved.

6. The secret information collected by the officer suffice to implicate the petitioner on the alleged charge and so



also imposition of penalty. Therefore, there is no infirmity in the order of punishment and its confirmation by the appellant and the revisional authority.

7. Heard learned counsels for the respective parties.

8. Undisputed facts are that the petitioner was subjected to disciplinary proceedings in placing him under suspension on 21.03.2006 and issuance of charge-memo on 20th April, 2006 and conclusion of departmental enquiry in imposition of penalty of termination on 23.07.2007 and its confirmation by the appellant and revisional authority.

9. Learned counsel for the petitioner contended that it is a case of no evidence. Perusal of the records it is crystal clear that there is no corroborative evidence in support of secret information stated to have been received by one of the officer of the respondent. The aforementioned position have been admitted by the learned counsel for the respondent with reference to the disciplinary proceedings record.

10. Apex Court in the case of ***Kuldeep Singh V. Commissioner of Police*** reported in ***(1999) 2 SCC 10*** it is held that ordinarily Court will not interfere with the disciplinary proceedings. At the same time it is held that if it is a case of no



evidence in such circumstances, disciplinary authority's order could be interfered on the sole ground that it is a case of no evidence.

11. In the light of these facts and circumstances, petitioner has made out a *prima facie* case so as to interfere with the impugned orders dated 23.07.2007, 25.01.2008 and 05.07.2008 (Annexure -1, 2 & 3). Accordingly the impugned orders are set aside.

12. The concerned respondent is hereby directed to reinstate the petitioner and extend all service benefits including monetary benefits from the date of termination till reinstatement. Monetary benefits shall be calculated and disbursed.

13. The above exercise shall be completed within a period of three months from the date of receipt of this order.

14. Accordingly, the present writ petition stands allowed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	01.09.2022
Transmission Date	

