

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10326 of 2020

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Sonu Kumar S/O Umesh Prasad Yadav R/O Village- Mansar, P.O.- Sahjadpur,
P.S.- Madhusudanpur, District- Bhagalpur, PIN 812005.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department,
Government of Bihar, Patna.
2. The Director General of Police-cum- I.G. of Police, Bihar, Patna.
3. The D.I.G of Police Katihar.
4. The Commandant B.M.P.- 7 Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Jha, Advocate
For the Respondent/s : Mr. M.N.H. Khan, SC-1

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

Date : 10-01-2022

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

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

“1. For Issuance of an appropriate
writ, order,/ direction to quash/set aside the
impugned office order of
dismissal/Termination of petitioner, vide Memo
No. 805/R.Ka. Dated, 10.04.2017, (Annex.-8)
passed by the Commandant of B.M.P.-7
Katihar, without appreciating the Departmental
Proceeding rules and natural justice to provide
the inquiry report to the petitioner of the above
said D.P. No.-13/2016 and without proofing the



alleged charge against the petitioner to award the gravious punishment tot he petitioner.

II. For issuance of an appropriate writ, order/orders, direction/directions in nature of Mandamus directing and commanding the concern respondents to reinstate the petitioner on his own post with all consequential benefits.

III. For issuance of an appropriate writ, order/orders, direction/directions to the concern respondent authorities to pay the arrears of full salary as per rules.

IV. For further issuance of an appropriate writ order or direction in nature of Mandamus directing and commanding the concerned respondent not to humiliate or harass the petitioner on account of the illegal and baseless, concocted and fabricated F.I.R. No. 662/2015 dated 27.11.2015 of Katihar Town P.S. Case when the criminal trial is pending before the Trial Court.

V. For issuance of any other relief or reliefs to which the petitioner found entitled to in the larger interest of justice.”

3. In the instant petition, petitioner has questioned the validity of order of dismissal/termination vide Memo No. 804/R.Ka. Dated 10.04.2017 (Annexure-8) issued by the Commandant of B.M.P.-7, Katihar (Respondent No. 4). Petitioner has approached this Court without exhausting remedy of appeal before the appellate authority. Thus, the present petition is pre-mature in the light of Apex Court's decision rendered in the case of *Jammu and Kashmir V. R.K. Zalpuri*



reported in ***AIR 2016 SC 3006*** at para 20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

4. A writ cannot be entertained if the petitioner has statutory remedy of appeal. Accordingly, the instant petition stands disposed of reserving liberty to the petitioner to prefer appeal before the appellate authority within a period of eight weeks from the date of receipt of this order. In the event such appeal is filed, the appellate authority is hereby directed to decide the petitioner's appeal within a period of four months



from the date of receipt of petitioner’s appeal. The appellate authority is hereby directed to take note of Section 14 of the Limitation Act for the purpose of condonation of delay.

6. With the above observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

