

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10442 of 2020

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Santosh Kumar S/o Sukhdeo Prasad Singh R/o Village-Madhusudanpur 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-L.G. of Police, Bihar, Patna.
3. The D.I.G. of Police Katihar.
4. The Commandant B.M.P.-7 Katiahr

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Jha
For the Respondent/s : Mr.Lalit Kishore (Ag)

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

Date : 11-01-2022

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 the
following relief/reliefs:

“I. For issuance of an appropriate writ, order, /
direction to quash/set aside the impugned office order
of dismissal/Termination of petitioner, vide Memo No.
804/R.Ka. Dated, 10.04.2017, (Annex.-9) 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. -12/2016 and
without proofing the alleged charge against the
petitioner to award the gravis punishment to the
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 directing 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. The petitioner has a statutory remedy of appeal against the dismissal order dated 10.04.2017. Without exhausting remedy of appeal petitioner has rushed to this Court and it is premature in the light of the Apex Court decision in the case of ***State of Jammu and Kashmir V/s. R.K. Zalpuri and others*** reported in ***AIR 2016 SC 3006 paragraph-20*** has held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V/s.Dosu Aardeshir Bhiwandiwalla and others {(2009) 1 SCC 168}, 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 question 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. Accordingly, present petition stands dismissed, reserving liberty to the petitioner to prefer an appeal before the Appellate Authority against the order of dismissal.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	14.01.2022
Transmission Date	

Underline Emphasized

