

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.382 of 2021

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Rajiv Ranjan Son of Kalicharan Singh Resident of Village- Fingi, P.S.- Behea,
District- Bhojpur at Arrah.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The D.I.G. of Police, Military Police, Central Zone, Patna.
4. The Commandant, B.M.P.-10, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad, Advocate
	:	Mr. Maruit Kumar, Advocate
For the Respondent/s	:	Mr. Md. Nadim Seraj, GP-5
	:	Mr. Shailendra Kumar, AC to GP-5

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

Date : 21-04-2022

Heard learned counsel for the parties.

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

*“That this is an application for
issuance of appropriate writ, order or
direction to set aside the order of dismissal
dated 16.04.2019 (annexure-8) passed by the
commandant B.M.P.-10 Patna, and order of
D.I.G. of Police, Military Police, Central
Zone, Patna dated 31.10.2019 (Annexure-
10) by which appeal of the petitioner has
been rejected and order of D.G. of police
dated 18.09.2020 (Annexure-12) by which
memorial of the petitioner has been rejected*



and for the grant of all consequential benefits.”

The petitioner, while working as a constable, had contracted second marriage with the consent of his first wife. The respondents-Department initiated disciplinary proceedings and concluded in imposition of penalty of two black marks on 05.03.2019 by the Commandant, who is the disciplinary authority for the petitioner. Thereafter, disciplinary authority came to know that he is stated to have committed error while imposing penalty of two black marks with reference to judicial pronouncement. In the result, he has reviewed his own order dated 05.03.2019 and passed a fresh order on 16.04.2019 while imposing penalty of dismissal from service. Feeling aggrieved and dissatisfied with the order of dismissal, petitioner preferred appeal and memorial, both were rejected on 31.10.2019 and 18.09.2020 respectively. Hence, the present petition.

Learned counsel for the petitioner submitted that the Commandant-Disciplinary Authority has no power to review his own order. Exercising power under the Police manual for the purpose of imposing penalty amounts to quasi judicial function. It is further submitted that the disciplinary authority has no power to review his own order. *Suo moto* review is permissible only by the D.G. and I.G.P. within a reasonable period of time.



On this issue, the impugned orders are liable to be set aside.

Per contra, learned counsel for the respondent resisted the aforesaid contentions and submitted that Commandant-Disciplinary Authority after noticing certain error in the order dated 05.03.2019 while imposing penalty of two black marks, he has only rectified the order of penalty. Therefore, there is no infirmity in the order and further it has been affirmed by the next higher authorities like the appellant authority and memorial decided by the competent authority.

Heard learned counsel for the respective parties.

Crux of the matter in the present petition is whether disciplinary authority could review his own order, once he exercised the power of imposition of penalty on the petitioner while invoking para 824 of Police Manual relating to penalties. Perusal of the complete Police Manual, the disciplinary authority is not empowered to review his own order. On the contrary, *suo moto* review is permissible and it has been assigned to the D.G. and I.G.P. and not to the Commandant. This legal issue has not been appreciated by the appellate authority or memorial decided by the competent authority on 31.10.2019 and 18.09.2020 respectively.

In the light of these facts and circumstances, the



Commandant reviewing his own order dated 05.03.2019 on 16.04.2019 is illegal and arbitrary, in other words, it is without authority of law.

Accordingly, order dated 16.04.2019 dismissal, rejection of appeal dated 31.10.2019 and rejection of memorial dated 18.09.2020 are set aside. Petitioner shall be taken back to duty forthwith with all service and monetary benefits. The monetary benefits shall be calculated and disbursed in favour of the petitioner within a period of three months from the date of receipt of this order.

With the above observation, the present petition stands allowed.

(P. B. Bajanthri, J)

Ankit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2022
Transmission Date	NA

