

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2182 of 2021

Binod Kumar, Son of Srikant Ray, Resident of Village Kosthua Warsaliganj,
P.S.- Kashichak, District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Bihar, Patna.
2. The Director General-cum-Inspector General of Police, Bihar, Patna.
3. The Inspector General of Police, Purnia Range, Purnia.
4. The Deputy Inspector General of Police, Purnia Range, Purnia.
5. The Superintendent of Police, Katihar.
6. The Inspector of Police- cum- Enquiry Officer, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Upendra Mishra, Advocate
For the Respondent/s : Mr. Sumant Kumar Jha, AC to AAG-3

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

Date : 23-03-2022

Heard learned counsel for the parties.

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

“i. For quashing the enquiry report dated 25.06.2020 submitted against the petitioner by the Inspector of Police- cum-Enquiry Officer, Katihar (Respt. No.6) holding him guilty of the charges dated 28.06.2016 levelled against him in Departmental Proceeding No. 38 / 16, Katihar District police.

ii. For quashing the Appellate order contained in District order No. 145 / 20, vide memo no. 804 dated 30.07.2020 passed by the I.G. Purnia Range, Purnia (Respt. no.3) (Annexure-14) has rejected the appeal filed by the petitioner.

iii. For quashing the departmental proceeding no. 38 / 16, Katihar, District Police, Katihar, initiated against the petitioner.



iv. And for further prayer is to direct the Respondents to reinstate the petitioner in service with all consequential and monetary and other service benefits.

v. Any other reliefs, which Court think, appropriate in the present fact and circumstances of the case.”

3. On 23.11.2021, the following order was passed:

“Heard learned counsel for the parties.

Short question for consideration in the present petition is for withdrawing, reviewing or modifying the penalty dated 04.05.2017 and as to whether the disciplinary authority could resort for continuation of inquiry from the defective stage or not?

On this point, learned counsel for the State is directed to get instruction whether penalty order dated 04.05.2017 has been withdrawn as on today or not?

Relist the matter on 30.11.2021.”

4. Further on 30.11.2021, the following order was passed:

“The disciplinary proceeding was initiated and concluded. It is learnt that matter was remanded to the disciplinary authority and further it was concluded.

In the instant case, certain dates are confusing. Therefore, State Counsel is hereby directed to furnish list of dates and events from the initiation of the enquiry to as on this date so as to ascertain whether penalty order dated 04.05.2017 has been withdrawn prior to 25.06.2020, which is subject-matter of enquiry in the present case.



List the matter on 02.12.2021.”

5. Learned counsel for the State on instruction submitted that order of penalty dated 04.05.2017 has been withdrawn on 30.07.2020.

6. In the light of the aforesaid dates and events whatever action taken by the official respondents pursuant to order dated 25.06.2020 till 30.07.2020 are not existing in the eyes of law, since the penalty order dated 25.06.2020 was withdrawn only on 30.07.2020.

7. Accordingly, the petitioner has made out a case, hence the order dated 25.06.2020 and Appellate Authority order dated 30.07.2020 stand set aside.

8. The disciplinary authority is at liberty to initiate proceedings in accordance with law with reference to the order of penalty dated 04.05.2017 read with its withdrawal on 30.07.2020 and complete the proceedings from the defective stage within a period of six months from the date of receipt of a copy of this order, if it is warranted.

9. The writ petition stands allowed.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2022
Transmission Date	NA

