

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.511 of 2023

=====

Dinesh Paswan, Son of Late Sridhar Paswan, Resident of Village- Manjathi,
Post Office- Khajuri, Police Station- Koanch, District- Gaya.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of General Administrative, Government of Bihar, Patna.
2. The District Collector, Gaya.
3. The Superintendent of Police, Gaya.
4. The Divisional Officer, Tekari, Gaya.
5. The In-Charge Officer, District General Office, Gaya.
6. The In-Charge Police Officer, Koanch, Gaya.
7. The Circle Officer, Koanch, Gaya.

... .. Respondents

=====

Appearance :

For the Petitioner	:	Mr. Virendra Prasad, Advocate Mr. Shashi Bhushan, Advocate
For the State	:	Mr. Saroj Kumar Sharma, AC to AAG-3

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 15-03-2023 Heard learned counsel for the petitioner and the State.

2. The petitioner in the present case is seeking a Writ in the nature of Writ Certiorari to quash and cancel the order of suspension as contained in Memo No. 261 dated 21.03.2018 issued by respondent no. 2.

3. The facts of the case as disclosed in the writ application would suggest that this petitioner was posted as Chaukidar in Circle Office, Koanch in the district of Gaya. On 17.06.2018, he was arrested by Rafiganj Police in the district of Aurangabad while he was sitting as a pillion rider on a motorcycle from which 750ml of illicit liquor was recovered. A



First Information Report as contained in Annexure '1' to the writ application giving rise to Rafiganj P.S. Case No. 101 of 2017 was registered under Section 30(a) of the Bihar Excise and Prohibition (Amendment) Act, 2016.

4. The petitioner was granted bail by learned Additional Sessions Judge-II-cum-Special Judge, Aurangabad on 29.06.2017 whereafter he submitted his joining application before the respondent authority which was accepted.

5. It is the case of the petitioner that after a lapse of more than six months, the respondent no. 2 issued an order of suspension as contained in Annexure '2' to the writ application and a direction was issued to the Circle Officer, Koanch to prepare a charge in form प्रपत्र (क).

6. The petitioner has further submitted that even after a lapse of 90 days from the date of suspension when no chargesheet was served upon him, he submitted an application before the concerned authority for revocation of suspension as according to him the further continuance of the petitioner under suspension was in violation of the mandate of Rule 9(7) of the Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 (hereinafter referred to as 'the Service Rules').



7. At this stage, it is the submission of the petitioner that he is continuing under suspension since 21.03.2018. It is informed that after more than three years only vide Memo No. 721 dated 02.07.2021 (Annexure '3' to the writ application) a chargesheet has been served upon the petitioner. At this stage, the prayer of the petitioner is that the order of suspension as contained in Annexure '2' to the writ application be quashed and an appropriate direction be issued to conclude the disciplinary proceeding initiated against him within a reasonable period.

8. Learned counsel for the State has opposed this writ application. It is submitted that the petitioner was arrested when he was going on a motorcycle from which 750ml of illicit liquor was recovered. It is his further submission that in terms of the policy decision of the Government, the Government employee if found involved in commission of an offence under the Bihar Excise and Prohibition Act, he is liable to be proceeded against.

9. Having heard learned counsel for the petitioner and the State as also on perusal of the records while this Court is of the considered opinion that no interference is required at this stage with the ongoing disciplinary proceeding, this Court is of the considered opinion that keeping the petitioner under suspension for almost five years is not justified. On perusal of



Annexure '2' itself it is evident that the order of suspension was passed on 16.03.2018 i.e. almost six months after the petitioner had already submitted his joining after his release on bail.

10. This Court, therefore, sets aside the order as contained in Annexure '2' to the writ application to the extent that the petitioner has been placed under suspension. The respondent no. 2 is directed to pass a consequential order of revocation of suspension of the petitioner within two weeks from the date of receipt/communication of a copy of this order.

11. At the same time, this Court would direct the disciplinary authority to conclude the disciplinary proceeding against the petitioner at the earliest and within a reasonable period. The disciplinary authority shall take all such decisions which are consequential in nature.

12. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U			
---	--	--	--

