

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.659 of 2023

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Ramsharan Yadav Son of Late Bhengri Yadav Resident of Devapur, P.O.-
Harkhua, P.S. Majhagar, District Gopalganj.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. Principal Secretary, Home Department, Government of Bihar, Patna.
3. Director General of Police, Government of Bihar, Patna.
4. Inspector General of Police, Munger.
5. Deputy Inspector General of Police, Munger.
6. Superintendent of Police, Munger.
7. The Deputy Superintendent of Police, Munger-Cum-Conducting Officer.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ashish Giri, Advocate
For the Respondent/s : Mr.Md. Nadim Seraj, GP-5
Mr.Dhurendra Kumar, AC to GP-5

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 04-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Reference may be made to the order dated
20.03.2023 which is being reproduced hereunder for a ready
reference:

“Heard learned counsel for the petitioner and the
State.

Petitioner is aggrieved by and dissatisfied with the
order as contained in Munger District Order No.
1386/2022 as contained in Memo No. 3052 dated
18.08.2022 issued under the signature of Superintendent
of Police, Munger.

Learned counsel for the petitioner submits that
earlier the petitioner was proceeded against in a
departmental proceeding. He was dismissed from
service whereafter he preferred an appeal before the



Additional Director General of Police (Budget, Appeal & Welfare), Bihar, Patna. His appeal was allowed vide order contained in Memo No. 02/2021/07 dated 06.10.2021(Annexure '9' to the writ application).

While setting aside the order passed by the disciplinary authority, the appellate authority specifically pointed out that the order of punishment has been passed on the basis of recommendation of the Superintendent of Police, Munger without providing a copy of the enquiry report and a second show cause to the petitioner which were in violation of the established procedure laid down under Rules 17 and 18 of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005. The order of punishment was, therefore, set aside and the matter was remitted to the Deputy Inspector General of Police, Munger Range, Munger to get conducted a fresh enquiry. In fact, the earlier enquiry report was also quashed by the appellate authority.

Learned counsel for the petitioner points out from Annexure '15' (impugned order) that on a bare perusal of the same, it would appear that after receipt of the appellate order dated 06.10.2021 (Annexure '9') a fresh enquiry was conducted through the Sub-Divisional Police Officer, Kharagpur. This time a copy of the enquiry report was provided to the petitioner with an opportunity to show cause but on perusal of the impugned order, it would appear that the disciplinary authority has not at all looked into the second show cause of the petitioner and the grounds raised therein. It is also submitted that despite a word of caution from the appellate authority on earlier occasion once again the Superintendent of Police, Munger recommended the punishment of dismissal from service and the same has been accepted by the disciplinary authority. What is surprising is that the order of punishment has been signed by the Superintendent of Police, Munger.

Learned counsel for the State prays for a short adjournment to file a counter affidavit.

Prima facie, this Court finds on perusal of Annexure '15' that it is wholly without consideration and it has been signed by Superintendent of Police, Munger. Let the Superintendent of Police, Munger swear his affidavit as to how he could propose a punishment to the disciplinary authority and then signed



the order of punishment also.

The D.I.G., Munger Range, Munger shall also explain the circumstances under which he seems to have abdicated his power as disciplinary authority and depended upon the recommendation from the Superintendent of Police as regards the quantum of punishment. On the next date, the original file of the disciplinary proceeding shall also be produced before this Court.

List this matter on 4th April, 2023 under the same heading, maintaining its position.”

3. Pursuant to the aforesaid order a counter affidavit has been filed on behalf of the respondent no. 5 and 6 separately. With the counter affidavit of respondent no. 6 the respondent has brought on record the final order passed by appellate authority which is enclosed as Annexure ‘B’ to the counter affidavit.

4. From Annexure ‘B’ to the counter affidavit of respondent no. 6 it appears that the impugned order imposing punishment upon the petitioner has been set-aside and the matter has been remitted to the competent authority for conducting a fresh proceeding under the Bihar Pension Rules, 1950. Since the petitioner has attained the age of superannuation during pendency of the writ application, the appellate authority has directed for conducting the proceeding under the Pension Rules.

5. Learned counsel for the petitioner as well as the



State agree that this writ application in so far as the reliefs prayed therein has become infructuous. Learned counsel for the petitioner however submits that by virtue of the setting aside of impugned order of punishment, the petitioner would be entitled for the consequential reliefs during the pendency of the proceeding under the Pension Rules.

6. Learned counsel for the State submits that in such circumstance the petitioner may submit a representation before the competent authority for grant of consequential reliefs which will be considered in accordance with law.

7. This Writ Application is, therefore, disposed of as having become infructuous with liberty to the petitioner to apply for consequential reliefs before the competent authority which will be considered within a reasonable period in accordance with law.

(Rajeev Ranjan Prasad, J.)

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