

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1518 of 2023

Chandan Kumar Son of Sri Shatrudhan Paswan Resident of Village- Pakahi,
Post Office- Tehta, Police Station- Makhdumpur, District- Jehanabad.
(Dismissed Constable of Bihar Police).

... .. Petitioner

Versus

1. The State of Bihar Through Principal Secretary, Home (Police) Department,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Pant Bhawan, Bailey Road, Patna.
3. The Zonal Inspector General of Police, Tirhut Zone, Muzaffarpur.
4. The Senior Superintendent of Police, Muzaffarpur.
5. The Superintendent of Police, Sitamarhi.
6. The Central Selection Board (For Constable Recruitment), Bihar, Patna
through its Chairman.
7. The Officer-on-Special Duty, Central Selection Board (For Constable
Recruitment), Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Dr. Mayanand Jha, Sr. Advocate Mr. Arvind Kumar, Advocate
For the State	:	Mr. Ruchikar Jha, AC to SC-8
For the Board	:	Mr. Sanjay Pandey, Advocate Mr. Binod Kumar Mishra, Advocate Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 08-05-2023 Heard Dr. Mayanand Jha, learned senior counsel

assisted by Mr. Arvind Kumar, learned counsel for the

petitioner, Mr. Ruchikar Jha, learned AC to SC-8 for the State

and Mr. Sanjay Pandey, learned counsel for the Central

Selection Board for Constable (hereinafter referred to as the

‘Board’).

2. The petitioner in the present case is seeking the
following reliefs:-



“(i) For issuance of an appropriate writ/writs, order/orders, direction/directions for setting aside the Sitamarhi District Police Order No. 798/2022 as contained in Memo No. 1825 dated 26.03.2022 (Annexure-P19) issued by the Superintendent of Police, Sitamarhi whereby the petitioner has been dismissed from service as a Constable of Bihar Police;
(ii) For setting aside the Appellate order passed by Inspector General of Police, Tirhut Zone, Muzaffarpur as contained in Memo No. 4806 dated 20.12.2022 (Annexure-P22) read with corrigendum dated 30.12.2022 (Annexure-P22/A) whereby he rejected the appeal of the petitioner against his dismissal by the Superintendent of Police, Sitamarhi;
(iii) For setting aside Muzaffarpur District Police Order No. 591/22 contained in Memo No. 1614 dated 01.04.2022 (Annexure-P20) dismissing the petitioner from the District Force in the light of Superintendent of Police, Sitamarhi’s order dated 26.03.2022;
(iv) For setting aside any adverse order passed by the Director General of Police, on the revision/Memorial filed by the petitioner;
(v) For setting aside entire Departmental Proceeding No. 5/19 against the petitioner;
(vi) For directing the respondent authorities to reinstate the petitioner with consequential benefits;
(vii) For grant of any other relief/reliefs the petitioner may be entitled in law in the eyes of this Hon’ble Court.

Brief facts of the case

3. It is the case of the petitioner that pursuant to the Advertisement No. 1/14 of the Board for filling the post of Constables in the Bihar Police, the petitioner applied for the same and cleared the qualifying examination. He was called for Screening Test at Patliputra Sports Complex, Kankarbagh, Patna



on 21.03.2015 at 10:00 A.M. and for Physical Eligibility Test on 26.03.2015 at Patna High School, Gardanibagh, Patna for which admit cards were issued to him.

4. It is the case of the petitioner that at the Screening Test Centre, the petitioner was allowed to enter the examination center only after conducting his biometric verification and signature/thumb impression. He cleared the screening test and PET and was declared successful by the Board. The petitioner was appointed as a Constable in Sitamarhi District vide CSBC's letter No. 414 dated 23.06.2015.

5. It is the further case of the petitioner that the Board informed the Superintendent of Police, Sitamarhi that there is allegation against the petitioner of engaging some scholar to clear the written examination and requested to send the petitioner on 22.11.2015 for enquiry. However, the petitioner was not produced. Consequently, the Officer on Special Duty of the Board requested the Superintendent of Police, Sitamarhi to lodge a first information report against the petitioner as signature of the petitioner in his application did not match with the signature at the time of screening which proves that some scholar got success in place of the petitioner. Accordingly, Dumra P.S. Case No. 321 of 2015 dated 01.12.2015 was



instituted against him for the offences under Sections 420, 467, 468 and 471 of the Indian Penal Code in which the petitioner got anticipatory bail.

6. It is stated that since the petitioner was not paid his salary nor any subsistence allowance for purported deemed suspension for the period he was out of duty, he moved before this Court by filing C.W.J.C. No. 18383 of 2017 which was disposed of vide order dated 29.08.2018 with a direction to conclude the departmental proceeding within three months. Thereafter, vide order contained in Memo No. 364 dated 27.01.2019 (Annexure 'P8') the petitioner was placed under suspension with effect from 23.01.2019. Thereafter, vide District Order No. 126/2019 dated 31.01.2019 (Annexure 'P9') issued by the S.P., Sitamarhi, memo of charge was framed against the petitioner alleging that he committed fraud in getting success in the examination. After conducting disciplinary proceeding, the Inquiry officer submitted enquiry report dated 28.02.2022 (Annexure 'P16').

7. On receipt of the inquiry report, the Superintendent of Police, Sitamarhi issued a second show cause notice vide Memo No. 1411 dated 04.03.2022 (Annexure 'P17') asking the petitioner as to why he be not dismissed from service. On



11.03.2022, the reply to the second show cause notice was filed by the petitioner. Thereafter, the Superintendent of Police, Sitamarhi passed order of dismissal of the petitioner vide District Order No. 798/22 contained in Memo No. 1825 dated 26.03.2022 (Annexure 'P19'). Since the petitioner was transferred to Muzaffarpur during pendency of the departmental proceeding, the Senior Superintendent of Police, Muzaffarpur issued a separate order bearing District Order No. 591/22 contained in Memo No. 1614 dated 01.04.2022 (Annexure 'P20').

8. Being aggrieved by the order of dismissal, the petitioner preferred statutory appeal before the Inspector General of Police, Tirhut Range/Zone raising various grounds by the Memo of appeal of the petitioner was rejected vide order contained in Memo No. 4806 dated 20.12.2022 (Annexure 'P 22'). The appellate order was communicated to the petitioner vide Letter No. 4865 dated 24.12.2022. Thereafter, the petitioner preferred Memorial/Revision before the Director General of Police, Bihar which is still pending.

Submissions on behalf of the Petitioner

9. Learned Senior Counsel for the petitioner submits that this case is identical to CWJC No. 4515 of 2017 and other analogous cases which have been allowed by this Court vide order



dated 10.04.2023. It is submitted that similar order may be passed in the present case also.

Submissions on behalf of the State

10. Mr. Ruchikar Jha, learned AC to SC-8 admits that this case is identically situated to that of CWJC No. 4515 of 2017 and other analogous cases, hence, it would be covered by the order dated 10.04.2023 passed by this Court in those cases.

Consideration

11. In CWJC No. 4515 of 2017, having considered the entire materials and submissions of the parties, this Court allowed the writ application, the operative part of the order reads as under:-

“25. In the nature of the submissions and the materials present on record and there being an admitted position that no Presenting Officer was appointed, this Court sets aside the impugned order of dismissal and the appellate order in all these writ applications and directs the concerned disciplinary authority to conduct the disciplinary proceeding from the stage of inquiry afresh in accordance with the procedures laid down under Rule 17 of the Service Rules governing the employment of these petitioners and take an appropriate decision thereon within a period of four months from the date of receipt/production of the copy of this order.

26. Needless to say that in terms of the Hon’ble Constitution Bench judgment in case of B. Karunakar (supra), the disciplinary authority shall take an appropriate decision as regards reinstatement for purpose of conducting the disciplinary proceeding only. Other consequential benefits, if any admissible to the petitioners would



depend upon the result of the disciplinary proceeding.

27. These writ applications are allowed to the extent indicated hereinabove.”

12. In the aforesaid view of the matter, the impugned orders of dismissal as contained in Annexures ‘P19’ and ‘P20’ as also the appellate order as contained in Annexure ‘P22’ are hereby set aside and the writ application is allowed in terms of the order dated 10.04.2023 of this Court passed in CWJC No. 4515 of 2017 and other analogous matters.

(Rajeev Ranjan Prasad, J)

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