

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8449 of 2021

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Rajesh Kumar S/o Ram Bachan Singh Resident of Village- Budhu Chowk,
Fathuha, P.S. Fathuha, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through D.G.P., Government of Bihar, Police Building,
Bailey Road, Patna.
2. The Addl. Director General of Police, Govt. of Bihar, Police Building,
Bailey Road, Patna.
3. The Inspector General of Police, Magadh Range, Gaya.
4. The Deputy Inspector General of Police, Magadh Range, Gaya.
5. The Deputy Inspector General of Police, Sahabad Range, Dehari on- Sone,
Rohtas.
6. The Superintendent of Police, Nalanda.
7. The Superintendent of Police, Aurangabad.
8. The Sub- Divisional Police Officer, Aurangabad.
9. Sub- Divisional Police Officer, Daudnagar, Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anurag Saurav, Advocate Mr. Abhinav Alok, Advocate Mr. Priyajeet Pandey, Advocate
For the Respondent/s	:	Mr. M.N.H. Khan, SC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 10-05-2023

Heard learned counsels for the parties.

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

"I. For issuance of writ in the
nature of certiorari, quashing the memo
bearing Memo no. 299 dated 14.08.2020
issued by respondent no. 2 (Additional D.G.
Law and order), whereby and where under
respondent no. 2 dismiss the appeal filed by



the petitioner on the ground that the respondent having jurisdiction to hear the appeal of the cases which has been dismissed by D.I.G. or I.G. and the petitioner's appeal was against the order passed by Superintendent of Police and the said order has been passed without considering the memo of appeal where the petitioner had challenged the order passed by D.I.G. along with order passed by Superintendent of Police.

II. For quashing the memo bearing Memo no 418 dated 20.02.2020 passed by D.I.G. Sahabad Region, Dehari on-sonne whereby and where under the appeal of the petitioner was dismissed on the ground of limitation as it has been stated in the order that the petitioner had filed the appeal after 11 months without considering the circumstances that previously the appeal of petitioner was to be heard by D.I.G. Magadh Range and petitioner file the appeal on time before D.I.G. Magadh Range but the post of D.I.G. Magadh Range was converted into I.G. Magadh Range and I.G. Magadh Range after obtaining permission from Head Quarter asked the petitioner to file fresh appeal before D.I.G. Sahabad Range, on the ground that I.G. Magadh Range has no jurisdiction to hear the appeal against the order passed by Superintendent of Police and without taking into consideration the above mentioned fact D.I.G. Sahabad Range dismissed the appeal on the ground of limitation.

III. For setting aside Memo bearing Memo no. 5671 dated 31.12.2018 issued by Respondent no. 7 passed in Department Proceeding no. 36 of 2017 whereby the petitioner has been granted three major punishment against the charges and petitioner has been directed to work on their principle pay scale throughout his life



along with three clank and apart from that the petitioner has not to be posted as Officer in-charge of any police station for next ten years.

IV. For setting aside memo bearing Memo no. 1630 dated 30.03.2019 issued by Respondent no. 6 whereby and where under the punishment imposed in Departmental Proceeding no. 36 of 2017 against the petitioner has been reissued.

V. For any other relief or reliefs which may the petitioner is entitled in the eye of law."

3. The petitioner was subjected to disciplinary proceedings and it was concluded in imposition of penalty of reverting to the basis pay-scale throughout the life, punishment of three Clank (Kalank) and petitioner shall not be posted as an Officer-in-charge for a period of ten years.

4. Feeling aggrieved and dissatisfied with the aforesaid punishment, petitioner preferred appeal before the appellate authority on 29.03.2019, before the DIG. During pendency of the appeal the post of D.I.G. was changed to I.G., Magadh Range whereas I.G., Magadh Range transmitted the papers to the D.I.G. In the meanwhile, D.I.G. asked the petitioner to prefer appeal before the I.G., in the result a fresh appeal was filed by the petitioner on 30th November, 2019 before the I.G., Magadh Range. I.G., Magadh Range transmitted



the appeal papers to D.I.G., Sahabad Range. The DIG, Sahabad Range rejected the petitioner's appeal solely on the ground that the memorandum of appeal was not within the time limit of six months with reference to initial penalty order dated 31.12.2018.

5. Perusal of DIG order it is evident that it is a non-speaking order. In all fairness, he should have examined the limitation issue for the reasons that the petitioner had preferred appeal on 29.03.2019 with reference to penalty order dated 31.12.2018. Due to administrative re-arrangement of identification of appellate authority, the petitioner was compelled to file a fresh appeal on 30th November, 2019, therefore I found that memorandum of appeal filed by the petitioner dated 29.03.2019 read with 30th November, 2019 and administrative orders relating to a change in identification of appellate authority is beyond the control of the petitioner, therefore, the DIG has committed glaring error in rejecting the petitioner's memorandum of appeal on the sole ground that it was beyond the time-limit stipulated. Accordingly, petitioner has made out a case so as to interfere with the DIG order dated 20.02.2020 and it is set aside. Appeal stands restored on the file of the DIG, Sahabad Range.

6. The DIG is hereby directed to decide the



petitioner's memorandum of appeal dated 30th November, 2019 on merits within a period of three months from the date of receipt of this order. In the meanwhile, petitioner is permitted to file any additional memorandum of facts or grounds in addition to the existing memorandum of appeal dated 30th November, 2019 within a period of one month from the date of receipt of this order. The appellant authority is hereby directed to examine whether the punishment imposed on the petitioner is in accordance with Para 824 of the Bihar Police Manual or not and proportionality of penalty also.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15.05.2023
Transmission Date	N.A.

