

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21994 of 2014

Sanjeev Kumar Son of Late Udit Ram, resident of village- Dhandhi, PO-
Borwal, P.S.- Bagaha, District- West Champaran at Bettiah

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Home Department, the Govt. of Bihar, Old Secretariat, Patna
2. The Director General of Police, Govt. of Bihar, Patna
3. The Deputy Inspector General of Police Champaran Range, Bettiah
4. The Superintendent of Police, East Champaran at Motihari

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Gyanendra Kumar Singh
For the Respondent/s : Mr.GP16- Rajesh Singh

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

8 10-01-2023 Heard learned counsel for the parties.

The petitioner has filed this writ petition for following
reliefs:-

I. For that an appropriate writ/ order/direction be issued to the respondents to appoint the petitioner on the post of police Constable (Arakshi) from the date of 28.10.2017.

II. For that an appropriate writ/ order/direction be issued to the respondents to pay all the consequential benefits to the petitioner from the date of his initial appointment i.e. 06.06.2007.

III. For that an appropriate writ/ order/direction be issued to quash the order dated 27.08.2007, 24.03.2008 and 04.11.2013 passed in District Order No. 2006/07, Appeal and Appeal Memorial respectively passed by the Superintendent of



Police, Motihari, Deputy Inspector General of Police, Champaran Range, Bettiah and Director General of Police, the Government of Bihar, Patna respectively.

IV. Any other relief of reliefs be granted to the petitioner for which he is entitled to.

Pursuant to an advertisement No. 01/04 petitioner applied for the post of Constable in Bihar Police Service/ Bihar Military Police and after appearing in the examination he was selected for the post of Police Constable and joined the service on 06.06.2007. After joining the service, verification of educational certificates and character certificate of the petitioner was made by the respondents and during that it came to light that a criminal case bearing Bagaha PS case No. 251/ 2004 is pending against him, as such, show cause notice was issued to the petitioner stating therein that why he not be dismissed from service due to suppression of material fact regarding pendency of criminal case against him. The petitioner submitted his reply to the show cause but he was dismissed from service vide order dated 27.08.2007 (Annexure-3 to the writ petition). His appeal and memorial were also came to be dismissed vide orders dated 24.03.2008 and 04.11.2013 (Annexure-4 and 5 to the writ petition), respectively. In the meanwhile, the petitioner was acquitted from the criminal case vide judgement dated 20.03.2009 (Annexure-1 to the writ petition).



The only question which arises for consideration in this case is that whether the petitioner has suppressed material fact about pendency of criminal case against him at the time of submission of application form or on the last date of submission of application form pursuant to advertisement No. 01/04 on the post of Constable.

It is submitted on behalf of the petitioner that pursuant to advertisement No. 01/04 petitioner submitted his application form for the post of Constable in the month of February, 2004 but prior to his selection the criminal case, i.e. Bagaha PS case No. 251/04 came to be instituted against him on 29.11.2004, which is much after submission of his application form. Thus, it is apparent that on the date of submission of application form or on the last date of submission of application form no criminal case was pending against him and petitioner did not suppress any material fact.

However, learned counsel for the State supported the impugned order and submitted that on the recommendation of the S.P., Bettiah cum Champaran Kshetra Board, Bettiah petitioner was selected on the post of Constable on temporary basis subject to condition of verification with regard to character certificate, educational qualification certificates and caste



certificate. During verification it came to light that Bagaha PS case No. 251/ 2004 u/s 376/511 of the IPC is pending against the petitioner in which charge sheet has already been submitted and thereafter after following due procedure of law departmental proceeding was initiated and in consequence thereof the petitioner was dismissed from service.

Having heard the rival submission of the parties and on going through the materials on record, it appears that petitioner was dismissed from service on account of alleged suppression of material fact regarding pendency of criminal case against him but admittedly at the time of filing of application form or on the on the last date for submission of application form, no criminal case was pending against him. Moreover, the petitioner has already been acquitted from the criminal case vide judgement dated 20.03.2009.

In that view of the matter, this court is of the opinion that petitioner has been dismissed from service on nonest ground and the order of punishment has been passed on non existent ground as admittedly no criminal case was pending at the time of filing application form.

In the result, this writ petition is allowed and the order of dismissal as well as the consequential orders (Annexures-3, 4 & 5) are hereby set aside and the matter is remitted back to the



Director General of Police, Govt. of Bihar, Patna, respondent
No.2, for consideration of the case of petitioner afresh in the
light of observation and direction made by this court within a
period of three months from the date of receipt/ production of a
copy of this order.

This writ petition stands allowed.

(Prabhat Kumar Singh, J)

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