

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8775 of 2019

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Pankaj Kumar Panth S/o Ram Prasad Yadav R/o Village-Baripatti, P.S. Bheja,
District-Madhubani Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar, Patna
 2. The Principal Secretary Department of Home and Police Department, Govt. of Bihar, Patna
 3. The Director General of Police Bihar, Patna
 4. The Regional Inspector General of Police Darbhanga
 5. The Deputy Inspector General of Police Darbhanga Range, Darbhanga
 6. The Superintendent of Police Samastipur
 7. The Conducting Office cum-Sub Divisional Police Office Dalsinghsarai, District-Samastipur
 8. The Conducting Officer cum-Sub Divisional Police Officer Samastipur
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Amarnath Jha, Advocate
For the Respondent/s : Mr. Manish Kumar, GP 4

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 14-09-2023

Heard the parties.

2. The present petition has been preferred for the
following reliefs:-

*(i) for issuance of an appropriate writ for
setting aside the Samastipur District Order No.
1056/18 issued on 24.07.2018 under the signature of
the Disciplinary Authority Cum-Superintendent of
Police Samastipur as contained in Gyapank 1922/R.
ka. (Annexure- 8) whereby and whereunder the
present petitioner has been found guilty and*



increment for one year has been stopped/seized with a direction that nothing will be payable to the petitioner in suspension period except the payment already made in the salary head;

(ii) for issuance of an appropriate aside the writ for setting aside the Darbhanga Range Order No. 46/19 as contained in Gyapank 408/ s. Sha issued under the signature of Deputy Inspector General of Police Darbhanga whereby and whereunder the appeal preferred by the petitioner against the abovementioned order 24.07.2018 by the Disciplinary Authority Cum S.P. Samastipur as contained in Gyapank 1922/R.Ka. (Annexure-8) has been confirmed;

(iii) for declaration impugned Annexures that the impugned Annexures 8 and 9 inflicting punishment upon the petitioner are nor sustainable in the eye of law as well as in facts.

(iv) for declaration that the petitioner is entitled to the increment and all dues payable and admissible to him in the salary head from which he



has been debarred.

3. The petitioner at the relevant period was serving as Officer In-charge, Khanpur Police Station in the District of Samastipur and was charged with the dereliction of duty in connection with Khanpur P.S. Case No. 134 of 2017 lodged on 06.11.2017 under sections 302, 201, 120(B) and 34 of the Indian Penal Code relating to the murder of one Pramila Kumari.

4. The case is that an FIR vide Khanpur P.S. Case No. 50 of 2017 was lodged on 03.05.2017 under sections 457, 323, 354, 504, 506 and 34 of the Indian Penal Code against the accused persons and in continuation of that, on 23.09.2017, Pramila Kumari lodged informatory petition no. 2215 of 2014 before the S.D.O., Samastipur against the accused persons stating that her life is in danger.

5. The S.D.O., Samastipur in turn sent the same to the Khanpur Police Station on 01.11.2017 and this petitioner on the same day, endorsed it to the ASI, Manjar Alam Khan to take necessary action.

6. As stated, the lady was subsequently killed on 06.11.2017 whereafter Khanpur P.S. Case No. 134 of 2017



was lodged.

7. On 08.11.2017, the petitioner was suspended vide District Order No. 1725 of 2017 issued under the signature of Superintendent of Police, Samastipur issued vide memo no. 7320 dated 08.11.2017 (Annexure 2 to the petition).

8. This followed the departmental proceeding and the Assistant Superintendent of Police was made Enquiry Officer while Mithilesh Singh was made the Presenting officer.

9. The Enquiry Officer thereafter vide memo no. 1234 dated 19.06.2018 after recording that the petitioner on receipt of the communication by the S.D.O., Samastipur on 01.11.2017, the same day directed the A.S.I., Manjar Alam Khan to take necessary steps who ultimately submitted report on 06.11.2017 for initiation of proceeding under section 107 of the Cr.P.C. He as such, came to the conclusion that the petitioner is innocent and there was no dereliction of duty on his part (Annexure 5 to the petition).

10. The Superintendent of Police was not convinced and as such, another enquiry took place and the



next incumbent although took into account that the petitioner was recently posted as S.H.O. of Khanpur Police Station; nonetheless, vide report dated 10.07.2018 opined that he can be held partially guilty (Annexure 7 to the writ petition).

11. This followed the order of the Disciplinary Authority cum Superintendent of Police, Samastipur and vide memo no. 1922 dated 24.07.2018, the punishment order was passed by which the pay increment for one year was forfeited and it was further held that he will not be entitled anything for during his suspension period (Annexure 8 to the petition).

12. Aggrieved, appeal was preferred which was rejected by the Deputy Inspector General of Police, Darbhanga Zone, Darbhanga vide memo no. 408 dated 01.03.2019 (Annexure 9 to the petition).

13. Aggrieved, the writ petition.

14. Heard the parties.

15. The case of the petitioner is that the lady made complaint on 23.09.2017 before the S.D.O., Samastipur which remained pending in his office for almost one month



whereafter it was forwarded to the Khanpur Police Station on 01.11.2017. On receipt of the same, he immediately endorsed it to Manjar Alam Khan, the AS.I. the same day who visited the lady on 05.11.2017 and the same night, she was killed.

16. It is the submission of the petitioner that from the aforesaid facts, it is clear that at no point of time, there was any delay and/or dereliction of duty on his part which was also taken note by the first Enquiry Officer while exonerating him of the charges.

17. Further, only because the Disciplinary Authority was not convinced, the second Enquiry Officer found the allegation partially proved which resulted into the punishment order.

18. It is his further submission that in his appeal, he had raised several points which do not find incorporated in the order of the Appellate Authority and has merely incorporated that the points raised in the appeal was perused by him and there is no new point which needs any consideration and in that background, the appeal was rejected.



19. He as such submits that the orders suffer from infirmity and need interference.

20. On the other hand, contention of the respondent-State is that due to the fault of the petitioner in not taking up the matter, an innocent life was lost. It is his further submission that being the SHO of Khanpur Police Station, he should have ensured that the matter is immediately dealt with. Having failed to do so, the orders have rightly been passed by the respondents.

21. Having heard the parties and on perusal of the records, it is clear from the order of the Appellate Authority that in a routine manner after incorporating all the facts of the case as also the punishment order passed by the Disciplinary Authority cum Superintendent of Police, Samastipur, the appeal has been rejected.

22. Being an Appellate Authority, it was essential for him to look into the points raised by the appellant, answer to it and incorporate the same in his order. It becomes essential in the backdrop of the fact that :-

(i) on 23.09.2017, the deceased lady had made complaint before the Sub-Divisional Officer, Samastipur;



(ii) he kept the same pending in his office for one month and seven days which can be considered very long period;

(iii) it was sent only on 01.11.2017 and thus crucial time was lost;

(iv) upon receipt from the office of S.D.O., Samastipur, on the same day (01.11.2017), the petitioner directed the A.S.I. Manjar Alam Khan to take steps;

(v) again, it was the A.S.I. who delayed visiting the lady till 05.11.2017 and on the same night, she was killed;

(vi) from the record, dereliction of duty on the part of the petitioner is not seen.

23. Taking into account the aforesaid facts, the first Enquiry Officer had exonerated the petitioner of the charges and only because the District S.P. was not convinced that the second report sought for which found the charges partially proved followed by the punishment order.

24. In the aforesaid circumstances, it was the duty of the appellate authority to discuss all the points raised by



the petitioner, incorporate his findings and pass a reasoned order.

25. Having failed to do so, the same has to be interfered with.

26. The appellate order issued vide memo no. 408 dated 01.03.2019 issued by the D.I.G., Darbhanga range, Darbhanga (as contained in Annexure 9 to the petition) stands quashed.

27. The petitioner will prefer a comprehensive appeal within a period of eight weeks from today alongwith copy of the order.

28. If such an appeal is preferred within the stipulated period; the same shall be considered by the Appellate Authority and an appropriate/reasoned order be passed within a period of six months.

29. The writ petition stands disposed of with the aforesaid observations.

(Rajiv Roy, J)

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