

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9548 of 2019

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Sanjay Kumar, aged about 25 years, Gender – Male, Son of Sudarshan Singh
Resident of Village- Bikramganj, P.O.- Bikramganj, P.S.- Bikramganj,
District- Rohtas, PIN- 802212.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Director General of Police-cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Saran Range, Chapra.
4. The S.P. of Saran (Chapra).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Mayanand Jha, Sr. Advocate Mr. Gaurav Prakash, Advocate
For the State	:	Mr. Shailesh Kumar, AC to GP 5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 05-07-2023

Heard learned counsels for the respective parties.

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

“i. For issuance of an appropriate writ, order, direction
or directions in nature of Mandamus directing and
commanding the concerned respondents to set- aside
the impugned order of DIG, Saran Zone Chapra
(Annexure-11) of this writ petition, in Appeal of
petitioner, vide memo no. 142/ रा० dated 15.01.2019
under the signature of S.P. Saran Chapra by way of
Saran Ziladesh No. 257/2019, Memo No. - 496/ रा० का०
dated 25.01.2019 in which the impugned Order of



Dismissal of petitioner passed by the S.P. Saran In D.P. No. 96/2015 by way of Saran Ziladesh No. 2005/18, Memo No. 4266/ रा० का० dated 03.10.2018 (Annexure-9) has been conformed without applying the judicial mind and appreciating the several Govt. of Bihar Notification and Hon'ble High Court Orders i.e. Annexures-12 to 15 of this writ. And also set aside the impugned order of dismissal of petitioner passed by the S.P. Saran, Chapra in Departmental Proceeding No. 96/2015 dated 03.10.2018 vide memo no. 4266/रा० का० (Annexure-9) of this writ petition, without going to the rules of D.P. so on the best ground that concerned respondents may be directed to reinstated the petitioner with all consequential benefits.

ii. For further issuance of an appropriate writ order or direction in nature of Mandamus directing and commanding the concerned authorities to reinstated the petitioner on his own post with all consequential benefits, on account of his no fault as alleged as in charge sheet.

iii. For further issuance of an appropriate writ order or direction in nature of Mandamus directing and commanding the concerned respondent to free from the alleged charges against the petitioner, due to in absence of no proof.

iv. For that further issuance of an appropriate writ order or direction in nature of mandamus directing and commanding the concerned respondent no corrosive action may be taken against the petitioner till the disposal of the above said case by the Trial Court in respects of the court proceeding better than authority.

v. For issuance of any other relief or reliefs to which the petitioner found entitled to in the larger interest of justice.”



3. The petitioner was a candidate for recruitment to the post of Constable pursuant to the Advertisement No. 1 of 2014. The petitioner was selected and appointed to the post of Constable. The official respondent noticed that the petitioner is alleged to have involved in impersonation in the selection process. On this allegation he was subjected to departmental inquiry including suspension. The departmental inquiry was concluded in imposition of penalty of dismissal from service on 03.10.2018. The petitioner preferred appeal and suffered an order. Hence, the present petition.

4. Learned counsel for the petitioner submitted that the crucial witness namely *Mr. Ranjit Kumar Rajak* who was the author of the report has not been examined. On the other hand, one *Mr. Chandrashekhar* was examined. In fact, *Mr. Chandrashekhar* while adducing evidence, he has stated that author of the report is *Mr. Ranjit Kumar Rajak*. It is further submitted that copy of inquiry report has not been made available to the petitioner along with the show cause notice. Even though show cause notice reveals that inquiring officer's report would be provided and it was not provided to the petitioner. The petitioner is also disputed relating to appointment of Presenting Officer.



5. *Per contra*, learned counsel for the respondents resisted the aforesaid contentions and submitted that there is no infirmity in the inquiry proceedings.

6. Heard learned counsels for the respective parties.

7. Undisputed facts are that petitioner was a candidate for recruitment to the post of Constable pursuant to the Advertisement No. 1 of 2014. He was selected and appointed. Thereafter, official respondent noticed that petitioner was involved in alleged impersonation in the process of selection and appointment to the post of Constable. On this count he was subjected to disciplinary proceedings including suspension and it was concluded in imposition of penalty of dismissal from service. The inquiry was initiated based on report submitted by one *Mr. Ranjit Kumar Rajak*. Author of the report is *Mr. Ranjit Kumar Rajak*. Such report was communicated to the competent authority by *Mr. Chandrashekhar*. In other words, *Mr. Chandrashekhar* was only communicated the inquiry report and he has been examined instead of examination of *Mr. Ranjit Kumar Rajak*. Further, copy of the inquiry report has not been made available to the petitioner. These are all the legal issues and they are defects in the inquiry proceedings. On this count, the petitioner has made out a case.



8. Accordingly, dismissal order and rejection of appellate authority dated 03.10.2018 and 15.01.2019 respectively are set aside reserving liberty to the disciplinary authority to proceed from the defective stage and complete the inquiry proceedings within a period of four months from the date of receipt of this order. Disciplinary authority/inquiring authority are hereby directed to provide ample opportunity of hearing to the petitioner.

9. The disciplinary authority is hereby directed to regulate the intervening period from the date of dismissal i.e. 03.10.2018 till passing of a fresh order in accordance with law. The above proceedings shall be drawn by the competent authority in regulating the period depending upon the outcome of the departmental inquiry. In the meanwhile, if the concerned respondent fails to complete the departmental inquiry within a period of four months, in that event, disciplinary authority is hereby directed to reinstate the petitioner subject to outcome of the departmental inquiry. This direction has been ordered to the disciplinary authority in the light of Apex Court decision in the case of *Managing Director, ECIL, Hyderabad and Others vs. B. Karunakar and Others* reported in (1993) 4 SCC 727 and *Coal*



India Ltd. vs. Ananta Saha reported in (2011) 5 SCC 142, para
Nos. 46 to 50.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.07.2023
Transmission Date	NA

