

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19342 of 2021

Virendra Kumar Son of Umesh Paswan Resident of Village and P.O. Madarpur, P.S.- Maheshkhunt, District- Khagaria, Pin- 85213.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home (Police) Department, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The D.I.G. of Police, Bhagalpur Range, Bhagalpur.
4. The Senior Superintendent of Police, Bhagalpur.
5. The Central Selection Board for Constables in Bihar Police, Patna.
6. The Chairman, Central Selection Board for Constables, Bihar Police, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar, Advocate
For the Respondent/s	:	Mr. Ruchikar Jha, AC to SC-8
For the CSBC	:	Mr. Sanjay Pandey, Advocate
		Mr. Binod Kumar Mishra, Advocate
		Mr. Vivek Anand Amritesh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-05-2023 Heard learned counsel for the petitioner and Mr. Ruchikar Jha, learned AC to SC-8 for the State.

2. Petitioners in the present case are seeking the following reliefs:-

- i. Issuance of an appropriate writ/order for setting aside the order of dismissal from service passed by the Senior Superintendent of Police, Bhagalpur vide Memo No. 4430 dt. 11.9.2020;
- ii. Issuance of an appropriate writ/order for setting aside the appellate order of rejection of appeal preferred by the petitioner against dismissal order passed by the S.S.P. Bhagalpur by the D.I.G. Bhagalpur Range vide Memo No. 462 dt. 21.5.2021;
- iii. Issuance of an appropriate order Commanding the D.G. of Police, Bihar to



decide the Memorial preferred by the petitioner at an early date;

iv. Issuance of an appropriate order/writ for setting aside any adverse order of the D.G. Police, Bihar against the petitioner on his memorial during the pendency of the present petition;

v. Issuance of an appropriate writ/order for setting aside the entire Departmental proceeding No.23/17 Revised No.60/16 against the petitioner;

vi. Issuance of a writ of mandamus to reinstate the petitioner in service with consequential benefits

vii. Grant of any other relief suitable to the petitioner for the ends of justice.”

Brief facts of the case

3. It is the case of the petitioner that pursuant to the Advertisement No. 1/14 published by the Central Selection Board for Constables (hereinafter referred to as “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 24.03.2015 at 08:30 A.M. and for PET on 30.03.2015 at Saheed Rajendra Prasad Singh, 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 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 on temporary basis in Bhagalpur District vide CSBC's letter No. 414 dated 23.06.2015.

5. It is the further case of the petitioner that vide Letter No. 992 dated 28.09.2015, the Board informed the Senior Superintendent of Police, Bhagalpur that there is allegation against the petitioner of using some scholar to clear the written examination and he was produced before the Board on 03.10.2015 for verification of the same. The petitioner submits that he confessed his crime under pressure of the members of the Board and the Police. The petitioner was put under suspension vide Memo No. 3555 dated 16.10.2015 with effect from 07.10.2015. A departmental proceeding vide Memo No. 3885 dated 25.09.2017 was initiated against him. Thereafter, the Conducting Officer submitted the inquiry report against the petitioner vide Memo No. 106 dated 21.08.2020 (Annexure 'P 9').

6. On the basis of the inquiry report, the S.S.P., Bhagalpur asked a second show cause from the petitioner vide Memo No. 4147 dated 28.08.2020. On 08.09.2020, the petitioner submitted his reply to the second show cause notice.



Thereafter, the S.S.P., Bhagalpur passed the order of dismissal on 08.09.2020 contained in Memo No. 4430 dated 11.09.2020 (Annexure 'P-11').

7. Being aggrieved by the order of dismissal, the petitioner preferred an appeal before the D.I.G., Bhagalpur Range raising various grounds but the memo of appeal of the petitioner was rejected vide order contained in Memo No. 462 dated 21.05.2021 (Annexure 'P 13'). The appellate order was communicated to the petitioner vide memo no. 2265 dated 29.05.2021. Thereafter, the petitioner preferred Memorial/Revision before the Director General of Police, Bihar which is still pending.

Submission on behalf of the Petitioner

8. 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.

Submission on behalf of the State

9. 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

10. 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.”

11. In the aforesaid view of the matter, the impugned orders of dismissal and appellate order as contained in Annexures ‘P 11’ and ‘P 13’ respectively 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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