

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1137 of 2023

Shankar Choudhary Son of Ramdev Choduhary, Resident of Village- Balia Bigha, P.S.- Rahui, District- Nalanda.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Additional Director General of Police, (Head Quarter) Bihar, Patna.
3. The Inspector General of Police, Region, Patna.
4. The Additional Inspector of Police, Central Range, Patna.
5. The Senior Superintendent of Police, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1138 of 2023

Ganga Prasad Gupta Son of Sri Shivtahal Gupta Resident of Village- Belaundi, P.S.- Mohania, District- Kaimur.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Additional Director General of Police, (Head Quarter), Bihar, Patna.
3. The Inspector General of Police, Region, Patna.
4. The Additional Inspector of Police, Central Range, Patna.
5. The Senior Superintendent of Police, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1157 of 2023

Randhir Kumar Dhiraj Son of Late Bauelal Sahu, resident of Village - Sonma, P.S. - Bakhri, District - Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Additional Director General of Police, (Head Quarter) Bihar, Patna.
3. The Inspector General of Police, Region, Patna.
4. The Additional Inspector of Police, Central Range, Patna.
5. The Senior Superintendent of Police, Patna.

... .. Respondents

with

Civil Writ Jurisdiction Case No. 1163 of 2023



Kanhaiya Yadav son of Dev Narayan Yadav, resident of Village- Arsandih,
P.S.- Bihpur, District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Additional Director General of Police, (Head Quarter) Bihar, Patna.
3. The Inspector General of Police, Region, Patna.
4. The Additional Inspector of Police, Central Range, Patna.
5. The Senior Superintendent of Police, Patna.

... .. Respondents

Appearance :

(In Civil Writ Jurisdiction Case No. 1137 of 2023)

For the Petitioner/s : Mr.Indu Bhushan, Advocate

For the Respondent/s : Mr.Dhurendra Kumar, AC to GP5

(In Civil Writ Jurisdiction Case No. 1138 of 2023)

For the Petitioner/s : Mr.Indu Bhushan, Advocate

For the Respondent/s : Mr.Md. Irshad AC to SC1

(In Civil Writ Jurisdiction Case No. 1157 of 2023)

For the Petitioner/s : Mr.Indu Bhushan, Advocate

For the Respondent/s : Mr.Ajay Kumar, AC to GP4

(In Civil Writ Jurisdiction Case No. 1163 of 2023)

For the Petitioner/s : Mr.Indu Bhushan, Advocate

For the Respondent/s : Mr.Md. Irshad AC to SC1

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 09-05-2023 Heard learned counsel for the petitioners as well as

learned counsel for the State in all these writ applications.

2. Since this Court has been given to understand that
the impugned order in all these writ applications are the same
and one, this Court proceeds to consider these writ applications
taking the lead case being CWJC No. 1137 of 2023.

3. The petitioners in these writ applications are
seeking quashing of the part of the order as contained in Memo
No. 8218 dated 09.07.2021 (Annexure '2') passed by the Senior
Superintendent of Police Patna by which while reinstating the



petitioners in service from the date of joining, it has been ordered that the salary for the period of dismissal and for the period of suspension shall not be paid and it will be decided after conclusion of departmental proceeding.

4. Learned counsel for the petitioners submits that the decision not to pay the salary of the petitioners from the date of dismissal up to their joining is illegal, unjustified and improper.

5. Learned counsel for the petitioners further submits that the order of dismissal dated 04.11.2018 in respect of all these petitioners has been set aside by this Court in CWJC No. 23925 of 2018 and other analogous cases on 03.05.2021. Thus, it is submitted that under such circumstance, the principle of no work no pay will not be applicable and the petitioners having been reinstated after setting aside of their order of dismissal are entitled to get full salary from the date of dismissal up to the date of joining.

6. Learned counsel has also relied upon two orders passed by the learned Co-ordinate Bench of this Court in CWJC No. 13987 of 2021 and CWJC No. 3659 of 2019 wherein the learned Co-ordinate Bench while setting aside the order of dismissal of the petitioners in those cases, directed the respondent authorities to take back the petitioners on duty and



extend all monetary benefits for the intervening period. Liberty was reserved to the respondents to initiate appropriate proceedings in respect of the alleged allegations and complete the proceedings within a period of four months from the date of receipt of the order.

7. On the other hand, learned counsel for the State has opposed this writ application. It is submitted that so far as the case of these petitioners are concerned, in their case the learned Co-ordinate Bench of this Court set aside the impugned order of termination, gave liberty to the authority, if they so desire, to take appropriate action in accordance with law but no consequential order for payment of monetary benefits was passed.

8. Learned counsel for the State has relied upon the Constitution Bench judgment of the Hon'ble Supreme Court in the case of **Managing Director, ECIL, Hyderabad and Others versus B. Karunakar and Others** reported in (1993) 4 SCC 727. Attention of this Court has been drawn towards paragraph '31' of the judgment.

9. Learned counsel submits that no fault may be found with the part of the order as contained in Annexure '2' to the writ application. According to them, the competent authority has



rightly taken a view that the decision with regard to the period of dismissal and suspension of the petitioners shall be taken after conclusion of the departmental proceedings. It is submitted that there being no identical kind of mandamus in the case of the petitioners, if compared with the orders passed in Annexures '3' and '4' of the writ application, the petitioners cannot claim the entire monetary benefits at this stage.

10. Having heard learned counsel for the petitioners and the State as also on perusal of the records, this Court finds substance in the submissions of learned counsel for the State. On a bare reading of the judgment of this Court in CWJC No. 23925 of 2018, it appears that the learned Co-ordinate Bench of this Court has set aside the order of termination passed against the petitioners as contained in Memo No. 13624 dated 04.11.2018 and granted liberty to the authorities, if they so like to take appropriate action in accordance with law.

11. In the case of **B. Karunakar** (supra), the Hon'ble Apex Court has taken a view as regards the consideration towards payment of monetary benefits upon conclusion of a disciplinary proceeding when it is conducted on remand, what has been held in paragraph '31', relevant part of the same are being extracted hereunder:-

“....Where after following the above procedure,



the Court/Tribunal sets aside the order of punishment, the proper relief that should be granted is to direct reinstatement of the employee with liberty to the authority/management to proceed with the inquiry, by placing the employee under suspension and continuing the inquiry from the stage of furnishing him with the report. The question whether the employee would be entitled to the back-wages and other benefits from the date of his dismissal to the date of his reinstatement, if ultimately ordered, should invariably be left to be decided by the authority concerned according to law, after the culmination of the proceedings and depending on the final outcome. If the employee succeeds in the fresh inquiry and is directed to be reinstated, the authority should be at liberty to decide according to law how it will treat the period from the date of dismissal till the reinstatement and to what benefits, if any and the extent of the benefits, he will be entitled. The reinstatement made as a result of the setting aside of the inquiry for failure to furnish the report, should be treated as a reinstatement for the purpose of holding the fresh inquiry from the stage of furnishing the report and no more, where such fresh inquiry is held. That will also be the correct position in law.”

(underline is mine)

12. In the aforesaid view of the matter, this Court finds no illegality or infirmity with the impugned order as contained in Annexure ‘2’ to the writ application. No direction for payment of monetary benefits to the petitioners may be given at this stage, however, keeping in view the judgment of the Hon’ble Apex Court in the case of **B. Karunakar** (supra), it will be incumbent upon the disciplinary authority to take a view with regard to the period of dismissal and the period within



which the petitioners remained under suspicion and the consequential benefits, if any, for which the petitioners may be found entitled in accordance with law.

13. These writ applications stand disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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