

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.286 of 2020

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Gauri Shankar Tiwary, Son of Late Satya Narayan Tiwary, resident of Village and P.O. Lijuwar, P.S. Dautpur, District- Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police (D.G.P.) Bihar, Patna.
3. Inspector General of Police (I.G.) Zone, Muzaffarpur.
4. Deputy Inspector General of Police (D.I.G.) Zone, Champaran.
5. D.I.G., Dehri-on-Sone, District- Sasaram.
6. I.G., Dheri-on-Sone, District- Sasaram.
7. Superintendent of Police, Bhabhua (Kaimur).
8. Superintendent of Police, Bagha.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashish Giri, Advocate Mr. Sumit Kumar Jha, Advocate Ms. Riya Giri, Advocate
For the Respondent/s	:	Mr. Manish Kumar (GP4) Mr. Ajay Kumar, AC to GP4

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

8 21-09-2023 Heard Mr. Ashish Giri, learned Counsel for the

petitioner duly assisted by Ms. Riya Giri and Mr. Ajay Kumar,

learned AC to GP4.

2. This application has been preferred for the
following reliefs:

*(i) to issue a writ/ order/ direction
in the nature of mandamus for commanding
the respondent to pay the back-wages of the
petitioner for the period 10.03.1998 to
09.11.2001 and/or for the period 10.11.2001*



to 31.01.2010;

(ii) to issue a writ/ order/ direction in the nature of mandamus for directing the respondent to grant three ACP to the petitioner and accordingly, re-fix the pension of the petitioner after revising the pay scale in terms of the benefit of ACP;

(iii) to issue a writ/ order/ direction in the nature of mandamus for directing the respondent to pay the subsistence allowance to the petitioner which was not paid when he was suspended vide office order dated 13.03.1998;

(iv) to issue a writ/ order/ direction in the nature of certiorari for quashing clause-4 of the order bearing no. 4263 dated 21.10.2011 passed by the Director General of Police, Bihar, Patna by which while setting aside the order of dismissal and reinstating the petitioner direction has been given for not providing the salary for the period during which the petitioner did not work.

3. The petitioner was appointed as a Constable and remained on unauthorized absence from service for 404 days for the period 10.03.1998 to 26.04.1999. Accordingly, after departmental inquiry, he was dismissed from service on 09.11.2001 by an order of the Superintendent of Police, Bagaha.



4. The petitioner went in appeal and as the same was not disposed of. Aggrieved, he preferred CWJC No. 3967 of 2004. The writ petition was disposed of on 19.07.2005 directing the respondents to dispose of the appeal/memorial if the same has remained pending (Annexure-1 to the petition).

5. The matter thereafter also went before 'the Department' when the petitioner filed representation and later moved before this Court in CWJC No. 5697 of 2009 claiming that similar situate others have been reinstated in service. However, the same was withdrawn on 28.07.2011 allowing the petitioner to pursue departmental proceeding.

6. The case of the petitioner is that subsequently, the Director General of Police, Bihar, Patna considered his case and vide order/memo no. 4263 dated 21.10.2011 reinstated him. (Annexure-5 to the petition).

7. His claim in the writ petition is/are three fold:

(i) he was entitled to the pay for the period of his dismissal but the D.G.P., Bihar had incorporated that he would not be entitled for it;

(ii) during the period of his suspension, he is/was entitled to subsistence allowance which too has been denied;

(iii) the respondents have to consider the grant of ACP



to him.

8. So far as the grievance relating to grant of subsistence allowance and ACP is/are concerned, learned State Counsel has drawn attention of this Court to the counter affidavit filed on behalf of the respondent no. 8, the Superintendent of Police, Bagaha annexing memo no. 262 dated 05.02.2023 by which the Superintendent of Police, Kaimur at Bhabhua has been directed to consider his case as on 11.07.1999, he was transferred from Bagaha to Kaimur and as such it has to be decided by the said office.

9. Learned State Counsel as such submits that his case is under active consideration and an order will be passed positively in next three months.

10. So far as the grievance no. 1 relating to payment of salary is concerned, learned Counsel for the petitioner submits that he may be given liberty to prefer a review petition before the D.G.P., Bihar, Patna in the light of Rule 841 (E) of the Bihar Police Manual which deals with the pay allowance and treatment of service on reinstatement as also Rule 843 which deals with the punishment for absence without leave.

11. The said liberty is granted.

12. The Superintendent of Police, Kaimur at Bhabhua



is directed to consider the case of the petitioner as also the memo no. 262 dated 05.02.2023 sent by the Superintendent of Police, Bagaha and pass a reasoned order within a period of three months from the date of production of the copy of order.

13. The natural consequences has to flow within next two months thereafter.

14. The writ petition stands disposed of with the aforesaid observation.

(Rajiv Roy, J)

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