

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1635 of 2019

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Pankaj Kumar Panth Son of Ram Prasad Yadav, resident of Village Benipatti,
Police Station Bheja, District- Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar through Director General of Police, Bihar, Patna.
2. The Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
4. The Superintendent of Police, Samastipur.
5. The Conducting Officer, Cum Sub Divisional Police Officer, Dalsinghsarai,
District- Samastipur.
6. The Conducting Officer-cum-Deputy Superintendent of Police
(Headquarter), Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ravindra Nath Dubey
For the Respondent/s	:	Mr. Vinay Kriti Singh, GA-2
		Mr. Sumant Kumar Singh, AC to GA-2

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT
Date : 26-02-2024

Heard learned counsel for the petitioner and
learned counsel for the State.

2. The present writ petition has been filed for quashing the order contained in Memo No.1718 dated 18.07.2018 passed by Disciplinary Authority-cum-Superintendent of Police (Annexure-1) as well as appellate order contained in Memo No.1421 dated 20.12.2018 passed by Deputy Inspector General of Police, Darbhanga Range, Darbhanga (Annexure-2).



3. Learned counsel for the petitioner submits that the order passed by Disciplinary Authority-cum-Superintendent of Police is a non-jurisdictional order and since the original order itself is a non-jurisdictional then appellate order shall automatically become non-jurisdictional order. Counsel submits that his case has been squarely covered by the judgment passed by this Court in the case of Ranjeet Kumar Vs. The State of Bihar vide order dated 08.05.2023 by which two writ petitions have been decided i.e., CWJC No.5554 of 2019 and CWJC No.5584 of 2019.

4. Learned counsel for the State, on the other hand, submits that the order passed by the Disciplinary Authority as well as the Appellate Authority have been passed completely in accordance with law and there is no illegality in the said order. Therefore, this writ petitioner is fit to be dismissed.

5. Upon hearing the parties and on perusal of the documents, it transpires to this Court that the day on which the departmental proceeding has been initiated the petitioner was working on the post of Station House Officer at the rank of Sub-Inspector. It transpires to this Court that services of petitioner has run in accordance with Bihar Police Manual, 1978, and



disciplinary proceeding has to run in accordance with CCA Rules, 2005. From the Appendix-41 of Volume-III of Bihar Police Manual, 1978, it is clear that for person working at the rank of Sub-Inspector the appointing authority as well as prompting authority is the Deputy Inspector General, whereas from Appendix-84 which has been prepared in the light of Rule 825(f) of the Bihar Police Manual, 1978, that for Sub-Inspector the authority competent to pass order of punishment or suspension either major, minor or reduction in rank is the Deputy Inspector General of Police, whereas in the present case from Annexure-1 it transpires that the said order of punishment has been passed by the Superintendent of Police. As such, it becomes crystal clear that order passed at Annexure-1 is basically a non-jurisdictional order as under the Bihar Police Manual the Superintendent of Police is not competent to pass order of punishment for S.I. it is the D.I.G. is competent. Here in the present case, the DIG who is the original authority to pass the punishment has passed the order in appeal and, hence, this Court is of the firm view that both the orders are non-jurisdictional and, therefore, fit to be set aside. Hence, the order contained in Memo No.1718 dated 18.07.2018 passed by Disciplinary Authority-cum-Superintendent of Police



(Annexure-1) as well as appellate order contained in Memo No.1421 dated 20.12.2018 passed by Deputy Inspector General of Police, Darbhanga Range, Darbhanga, are hereby set aside.

6. The respondents are free to take steps against the petitioner in the departmental proceeding in compliance of CCA Rules, 2005 further. But the said action shall be concluded within 90 days from the date of receipt/production of a copy of this order. Accordingly, the writ petition is allowed.

7. It is made clear that petitioner shall be entitled for all consequential reliefs which is available under law.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.02.2024
Transmission Date	NA

