

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6701 of 2021

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Dilip Kumar, son of Late Shiv Kumar Verma resident of Village- Punawan,
P.O. and P.S.- Wazirganj, District- Gaya (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Gov-
ernment of Bihar, Patna
2. The Principal Secretary, Home Department, Government of Bihar, Patna
3. The Director General of Police (Administration), Sardar Patel Bhawan, Bai-
ley Road, Patna
4. The Deputy Inspector General of Police, Bihar, Military Police (Central
Zone), Patna, District- Patna
5. The Commandant, Bihar Military Police-2, Dehri, District- Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Advocate
		Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Saroj Kumar Sharma, AC to AAG-3

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

Date : 05-07-2024

In the instant petition, petitioner has prayed for the fol-
lowing relief(s):-

*"(i) To issue an appropriate writ/order/direction, in the nature of certio-
rari for quashing the order dated 01.04.2020
passed by the Commandant, Bihar Militar
Police-2, Dehri as contained in Memo
No.1134 dated 01.04.2020 by which he has
been pleased to dismiss the Petitioner from
service.*

*(ii) To issue an appropriate
writ/order/direction, in the nature of certio-
rari for quashing the Order dated
07.01.2021 passed by the Deputy Inspector
General of Police, Bihar Military Police
(Central Zone) Patna as contained in Memo*



No.66 dated 07.01.2021 by which the Appeal filed by the Petitioner has been rejected.

(iii) To issue an appropriate writ / order / direction, in the nature of mandamus commanding the Respondents to immediately reinstate the Petitioner in service with all consequential benefits i.e. salary, etc.

(iv) To any other relief or reliefs for which the Petitioner is entitled to."

2. On 12.04.2022, the following order was passed:-

"State counsel is hereby directed to secure original records relating to notings read with the imposition of penalty of dismissal from service so as to ascertain whether the disciplinary authority has written any reasons as to impracticability to hold enquiry and resorting to Article 311 (2)(b) of the Constitution of India or not?

Re-list this matter on 26.04.2022."

3. Short question for consideration in the present petition is that petitioner is a regular holder of the post of Constable. He has been dismissed from service without resorting to disciplinary regulations. Even for dispensation of any disciplinary regulations, disciplinary authority was required to record reasons for dispensing inquiry. At this stage, it is relevant to take note of Rule 20 of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005 which reads as under:-

"20. Special procedure in certain cases.- Notwithstanding anything contained in Rules 17 to 19-



(i) where any penalty is imposed on a Government Servant on the ground of conduct which has led to his conviction on a criminal charge, or

(ii) where the disciplinary authority is satisfied for reasons to be recorded by him in writing that it is not reasonably practicable to hold an inquiry in the manner provided in these Rules, or

(iii) where the Government is satisfied that in the interest of the State, it is not expedient to hold any inquiry in the manner provided in these Rules, the disciplinary authority may consider the circumstances of the case and make such orders thereon as it deems fit:

Provided that the Government Servant may be given an opportunity of making representation on the penalty proposed to be imposed before any order is made in a case under clause (i):

Provided further that the Commission shall be consulted, where such consultation is necessary, before any orders are made in any case under this Rule.

4. Clause (ii) is crystal clear that whether the disciplinary authority is satisfied with the reasons to be recorded by him in writing that it is not reasonably practicable to hold inquiry in the manner provided in the cited Rules. Reading of this provision, it is crystal clear that disciplinary authority was required to record the reasons for dispensation of holding inquiry. The same is



not reflected from record so also State Government have not appraised with any document to show that there is a compliance to Rule 20 of Bihar Government Servants (Classification, Control and Appeal) Rules, 2005. Accordingly, the petitioner has made out a case. Impugned orders dated 01.04.2020 (Annexure-3) and 07.01.2021 (Annexure-5) are set aside. In the result, the present writ petition stands allowed. Resultantly, Respondents are directed to regulate the intervening period from the date of dismissal till a particular date i.e., if he is taken back to duty or age of superannuation and retirement, calculate arrears and disburse the same within a period of six months from today.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

