

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14737 of 2012

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Sanjay Kumar Pandey Dismissed Constable-730 District Police, Nalanda,
Son Of Sri Manoj Pandey Resident Of Village + P.O. Matiyari Ward No. 07
P.S. Forbesganj District- Araria Petitioner

Versus

1. The State Of Bihar through the Director General of Police, Bihar Old Secretariate, Patna
 2. The Superintendent Of Police, Nalanda
 3. The Police Inspector-Cum-Conducting Officer, Bihar Circle, Nalanda
 4. The Officer-In-Charge, Noor Sarai Police Station, Nalanda
- Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Singh, Advocate
For the State : Mr. Fazle Karim, Ac to SC-1

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 28-03-2024

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

2. The present writ petition has been filed for quashing/set aside the Nalanda District Order No. 5220 dated 21.10.2009 whereby the Superintendent of Police, Nalanda (respondent no. 2) has dismissed the service of the petitioner as Constable No. 730 in a Departmental Proceeding No. 82 of 2008.

3. Learned counsel for the petitioner submits that the petitioner was initially appointed and join on 01.02.1994 as a Constable No. 730 at Supaul District Police and thereafter he was transferred and joined at Noorsarai Police Station in Nalanda District in the capacity of Constable and from where he had gone on casual leave for ten days from 04.08.2007 and in spite of fact that



the casual leave granted only one day and joined on 16.08.2007 at Noorsarai Police Station and for that a departmental proceeding bearing Departmental Proceeding No. 103 of 2007 was initiated against the petitioner for availing ten day's casual leave without sanction. One Mr. Parasnath Sahu was appointed as a conducting officer of the departmental proceeding and during departmental proceeding the conducting officer had sent a Registered letter dated 12.07.2008 to the petitioner from his explanation in the matter on his home address as he was absent on duty without any information to the Officer-in-Charge Noorsarai Police Station and in reply that Registered Notice on 21.07.2008 a report was submitted by the postal department that the petitioner is in Jail since 09.04.2003. The Inspector (Officer-in-Charge) of Noorsarai Police Station had submitted a report on the matter to the Superintendent of Police, Nalanda vide letter no. 1807 of 2008 dated 26.07.2008 for needful further facts. The Superintendent of Police, Nalanda vide Letter No. 4 of 56 dated 08.08.2008 addressed to the Superintendent of Police, Arariya for report in the matter through A.S.I., Om Prakash Singh who submitted his department S.P., Nalanda on 12.08.2008 informing S.P., Nalanda that the petitioner is in Jail in Farbishganj P.S. Case No. 86 of 2008 dated 17.02.2008 under Section 302 of the Indian Penal Code for the murder of his wife and on the basis of the report of A.S.I., Om Prakash Singh, the Superintendent of Police, Nalanda suspended the petitioner with effect from 09.04.2008 and



order for further departmental proceeding which was number as Departmental Proceeding No. 82 of 2008 and during enquiry the statement of P.Ws and concerned papers connecting the matter submitted his report to the Superintendent of Police, Nalanda on 30.01.2008 holding the allegation against the petitioner was correct and holding that the petitioner without information remained absent from duty and remain in Jail without information to the department in a case of murder of his wife. The Superintendent of Police, Nalanda on the basis of report of Police Inspector Ekangarsarai Anchal dismissed the petitioner from service as Constable vide Order No. 1277 of 2009 dated 21.10.2009.

4. Learned counsel for the petitioner further submits that the respondents have arbitrarily and maliciously concluded the enquiry themselves without waiting the response or giving any opportunity or participation of the petitioner in the proceeding and found charges proved on 30.11.2008 and it appears from the impugned order itself that there is violation of principle of natural justice and petitioner has not given any opportunity to present his case in the proceeding. Learned counsel for the petitioner further submits that the petitioner has been acquitted by the learned Trial Court in the pending criminal case on which basis the petitioner has been dismissed from service. The petitioner has been acquitted in Sessions Trial No. 304 of 2009 vide order/judgment dated 30.03.2012.



5. Learned counsel for the State has filed a counter affidavit stating therein that the conducting officer of the said departmental proceeding has send a registered letter dated 12.07.2008 to the petitioner for his explanation in the present matter on his home address but no reply has been received and a report was submitted by the postal department that the petitioner was in jail since 09.04.2003 and as per direction of the Superintendent of Police, Nalanda, A.S.I., Om Prakash Singh has submitted a report before the Superintendent of Police, Nalanda that petitioner is in Jail in Farbishganj P.S. Case No. 86 of 2008 under Section 302 of the Indian Penal Code for the murder of his wife and after receiving the report, the departmental proceeding was concluded and petitioner has been inflicted punishment for dismissal from service on the ground that the petitioner without information remained absent from his duty and remained in judicial custody without information to the department in a case of a murder of his wife which is a serious matter which goes against a police constable and the petitioner has not acted as Constable properly and due to action of the petitioner the image of the police goes lower down and there is no infirmity in the impugned order and after giving the opportunity to the petitioner, the present impugned order has been passed and in a discipline service like the police service the petitioner was absent from his duty without informing the authority concerned and he was in judicial custody



for charge of murder of his wife and in the proceeding witnesses were examined and they were supported the allegation as alleged in the proceeding and it appears from the impugned order itself that the petitioner has submitted his explanation and after due consideration of the explanation of the petitioner, the present impugned order has been passed and the disciplinary authority has not found the reply of the petitioner satisfactorily and he was absent from his duty without sanction/permission from the competent authority and was in judicial custody for charge of murder of his wife, which is against the discipline and good order of the force. The petitioner was acquitted on 30.03.2012 by the Additional District & Sessions Judge, Fast Track Court No. VI, Araria on the basis of benefit of doubt and it is not a clean acquittal. Petitioner was dismissed from service on the charge of absent from duty in a departmental proceeding.

6. In view of the aforesaid, there is no merit in the writ petition and it is, accordingly dismissed, being devoid of merit. There shall be no order as to costs, however.

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(Rajesh Kumar Verma, J)

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