

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11003 of 2022

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Babalu Kumar @ Babalu Bind S/o Lalan Prasad, R/o Village - Kadirganj,
Post - Bhadokhara, P.S. - Darigaon, Dist. - Rohtas, PIN 821115.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department, Government of Bihar, Patna.
2. The Director General of Police-cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Tirhut Range, Muzaffarpur.
4. The S.S.P. of Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjit Jha, Adv.
For the State : Mr. Suman Kumar Jha (AC to AAG-3)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 15-03-2024

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

2. The present writ petition has been filed for
setting aside the order of dismissal passed by The Senior
Superintendent Police, Muzaffarpur *vide* Muzaffarpur Ziladesh
No.1809/2020 contained in Memo No. 3560 dated 11.12.2020
(annexed as Annexure-9) as well as the order passed by the
Appellate Authority contained in Memo No.328/legal cell
Office of I.G., Tirhut Region, Muzaffarpur dated 08.06.2022



(annexed as Annexure-17).

3. Learned counsel for the petitioner submits that the petitioner participated in the examination conducted by C.S.B.C (Central Selection Board of Constable), Bihar, Patna for selection of Constable in Bihar Police Force and after qualifying the entire selection test, the petitioner has submitted his joining within time and identity card was allotted to the petitioner as Sepoy-1259 of Bihar Police. Counsel also submits that the petitioner was terminated from his post *vide* Muzaffarpur Ziladesh No.89/2016 dated 15.01.2016 (annexed as Annexure-4) on the basis that the petitioner has not mentioned his implication in a police case in his character verification form. Counsel further submits that against the said termination order, the petitioner has preferred writ petition before this Hon'ble Court in Civil Writ Jurisdiction Case No.21132/2018 in which *vide* order dated 16.08.2019, the order of termination has been set aside and a direction was made which states as follows:-

“The petitioner submits that this case is entirely covered by the judgment and order passed in C.W.J.C. No.18337 of 2016 (Kamlesh Kumar Choudhary vs. The State of Bihar and others). In that case also, the petitioner was dismissed from service on the



ground of forgery committed by him without holding of enquiry, the order of termination has been set aside.

If in the present case, facts, law and prayer are identical, the order of termination will be treated to have been set aside, but without direction of reinstatement, at the same time, this Court also directs, the enquiry should be conducted and completed without any delay, preferably within three months from the date of receipt or production of a copy of this order. Any payment will be made subject to final result of the case.

Accordingly, this petition is disposed of.”

4. Learned counsel for the petitioner submits that *vide* aforesaid order dated 16.08.2019, the petitioner was re-instated in the service *vide* Muzaffarpur Ziladesh No.231/2020 contained in Memo No.453 dated 14.02.2020 (annexed as Annexure-7). Counsel further submits that thereafter, S.S.P., Muzaffarpur had started a departmental proceeding against the petitioner and fresh charge memo has also been issued *vide* Muzaffarpur Ziladesh No.308/2020 contained in Memo No.605 dated 05.03.2020 (annexed as Annexure-8). Counsel submits that following the charge memo, enquiry has been conducted and the final punishment order has been passed. In the said final



order, the petitioner was dismissed from the service *vide* Muzaffarpur Ziladesh No.1809/2020 contained in Memo No. 3560 dated 11.12.2020 (annexed as Annexure-9). Counsel also submits that the petitioner thereafter, moved before the Appellate Authority and the Appellate Authority has passed the final order on 08.06.2022 *vide* Memo No.328/legal cell by which his appeal has been rejected. Thereafter, the petitioner has challenged both the orders i.e. the original order as well as the appellate order before this Hon'ble Court.

5. Learned counsel for the petitioner further submits that the orders impugned i.e. original and appellate orders are absolutely in gross violation of law and in support of his claim, counsel for the petitioner has annexed several annexures of orders i.e. order passed in case of ***Shishupal Kumar Vs. The State of Bihar & Ors. in C.W.J.C. No. 2468 of 2019 dated 19.02.2019*** (annexed as Annexure-10); order passed in case of ***Raj Kishor Chaudhary Vs. The State of Bihar & Ors. in C.W.J.C. No. 16293 of 2014 dated 23.07.2019*** (annexed as Annexure-11); order passed in case of ***Didar Singh Vs. Union Territory of Chandigarh & Ors. in C.W.P. No.19833 of 2019 dated 26.02.2020*** (annexed as Annexure-12); order passed in case of ***Ram Prakash Bajpai Vs. The State of U.P through***



Principal Secretary, Civil Aviation Department, Lucknow in Service Single No. 331 of 2012 dated 15.03.2021 (annexed as Annexure-13); order passed in case of *Sunil Kumar Vs. The State of Bihar & Ors. in C.W.J.C. No. 10563 of 2020 dated 06.08.2021* (annexed as Annexure-14). Counsel further submits that his case is squarely covered from the judgments annexed from Annexure-10 to Annexure-14 and the ratio laid down in those cases are squarely covered the case of the present petitioner in which the petitioners of those cases has given false information in their verification form, even then the Court has permitted them to continue their services and termination has been set aside. Counsel also submits that the petitioner has been acquitted in the criminal case about which allegation of suppression has been made against him on the basis of which he has been removed from the service.

6. Learned counsel for the State on the other vehemently opposes the prayer of the petitioner and submits that the petitioner's counsel has not properly assisting this Court as the petitioner has earlier moved before this Hon'ble Court and this Hon'ble Court has not directed to re-instate and make payment, rather, the said re-instatement is only and only for the purpose of continuation of the departmental proceeding in



accordance with law. Counsel also submits that none of the cases mentioned here shall provide any help to the petitioner as the ratio laid down in those cases are absolutely different from the facts and circumstances of the present case. Counsel further submits that this Hon'ble Court is not sitting in an appeal, rather, sitting in Judicial Review and the Hon'ble Court may look into only the procedural aspects of the matter on which there is no pleading on behalf of the petitioner and the only one aspect on which the petitioner is relying that the ratio of other cases are squarely covered to the present case. Counsel also submits that opportunity to defend his case has been granted to the petitioner and subsequently, after conduction of the enquiry, it has come that wrong information has been inserted by the petitioner intentionally about his character and antecedent. And in the final order, the Disciplinary Authority have discussed each and every aspect of the matter and passed a reasoned and speaking order and thereafter, the services of the petitioner has been terminated.

7. Learned counsel for the State further submits that against the order of dismissal passed by The Senior Superintendent Police, Muzaffarpur *vide* Muzaffarpur Ziladesh No.1809/2020 contained in Memo No. 3560 dated 11.12.2020, the petitioner has filed writ petition before this Hon'ble Court in



C.W.J.C. No.6636/2021 in which *vide* order dated 07.02.2022, this Hon'ble Court has pleased to grant him liberty to avail his remedy before the Appellate Forum. The petitioner thereafter, moved before the Appellate Forum and the Appellate Forum has passed the final order affirming the order passed by the Original Authority.

8. Upon perusal of the documents and hearing the parties, it transpires to this Court that counsel for the petitioner has correctly argued that the petitioner was earlier terminated and against which the petitioner has earlier moved before this Hon'ble Court in which the specific orders as quoted above has been passed. From the said order, it is clear that this re-instatement is not a re-instatement in true sense as there was no direction to make the payment of the salary, rather, the statement is only for the purpose of conduction of the departmental proceeding afresh. In this light, the order has been passed by the Authority which is Annexure-7 i.e. Muzaffarpur Ziladesh No.231/2020 contained in Memo No.453 dated 14.02.2020, thereafter, charge memo has been issued in which it has been specifically made that the petitioner has made suppression in his verification form (column-7) in which he was supposed to provide the correct information about his involvement in the



crime, but he has inserted in the said column that there is no case pending against him. After his joining, when it has come in the police verification that the said false information has been inserted then only the departmental proceeding has been initiated and in the light of the Hon'ble Courts order second time, the proceeding has continued.

9. It also transpires to this Court *vide* Annexure-10 i.e. case of ***Shishupal Kumar Vs. The State of Bihar & Ors (supra)***, the petitioner had stopped joining the police force even then he was acquitted from the criminal case. The case of this fact is not as like that of the present case, and therefore, this judgment shall not help the petitioner in any manner.

10. So far as the case of ***Raj Kishor Chaudhary Vs. The State of Bihar & Ors.(supra)*** is concerned, in the said case, the petitioner has been acquitted of the same charge on the basis of the same evidence as mentioned in the charge memo and therefore, this Hon'ble Court has granted the liberty to the petitioner to approach the authority for re-consideration of the punishment in view of law. But, here in the present case, the contents of charge memo and contents of FIR are different and therefore, this judgment shall also not help the petitioner in any manner.



11. So far as the case of ***Didar Singh Vs. Union Territory of Chandigarh & Ors. (supra)*** is concerned, in the said case, the facts and circumstances are quite different as like that of the present case due to the reason that this case is relating to Central Administrative Tribunal whereas the present case has to be guided by the Bihar Government Servant (Classification, Control & Appeal) Rules, 2005 and therefore, this judgment shall also not help the petitioner in any manner.

12. So far as the case of ***Ram Prakash Bajpai Vs. The State of U.P through Principal Secretary, Civil Aviation Department, Lucknow (supra)*** is concerned, the Hon'ble Court has found that the enquiry held against the petitioner is not held as per the procedure established by the law. Therefore, the termination order has been set aside. Here, there is no challenge by the petitioner that enquiry has been held not in accordance with the procedural law and therefore, this judgment shall also not help the petitioner in any manner.

13. So far as the case of ***Sunil Kumar Vs. The State of Bihar & Ors. (supra)*** is concerned, this Hon'ble Court has categorically given his finding in paragraph no.8 of the judgment which states as follows:-

“It is an admitted fact that the petitioner, while filing up the application form has not



mentioned that he an accused in a criminal case, but then it is equally true that a Panchayati had taken place pertaining to the aforesaid criminal case wherein the matter was settled and the decision of the Panchayat was submitted before the Court below leading to the petitioner being under the impression that the case was over and moreover, the petitioner has also stood acquitted by the judgment dated 19.12.2019.”

Here in the present case, no such *Panchayati* took place and no such decision of the *Panchayat* was filed before the Criminal Court and therefore, this Court is of the firm view that the ratio laid down in this case shall also not help the petitioner in any manner.

14. Conclusively, this Court is of the opinion that the allegation made in the charge memo and allegation made in the FIR are distinct. There is no deficiency found in the departmental proceeding by this Court and this Court is of the firm view that an employee of police service is required to be disciplined and true person must not suppress the truth about himself as throughout, he has to fight against the falsehood and help the society in whose favour truth is there and also to identify the truth throughout his service and such fraudulent



behaviour is not tolerated in the police force.

15. Accordingly, with the aforesaid observations,
this writ petition is hereby dismissed.

(Dr. Anshuman, J.)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	20/03/2024
Transmission Date	NA

