

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1885 of 2021

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Birendra Kumar Singh Son of Late Ramalayak Singh Resident of village -
Nawada, P.S. - Karakat, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Bihar, Patna.
2. The Director General- cum- Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Koshi Range, Saharsa.
4. The Superintendent of Police, Saharsa.
5. the Additional Superintendent of Police- cum- Enquiry Officer, Saharsa.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Upendra Mishra, Adv. Mr.Bhaskar Sandilya, Adv.
For the State	:	Mr.Sheo Shankar Prasad, SC-8 Ms.Ruchikar Jha, AC to SC-8

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 18-01-2024

1. The present writ petition has been filed for quashing the order dated 11.05.2020, passed by the Deputy Inspector General of Police, Koshi Range, Saharsa, whereby and whereunder the petitioner has been dismissed from service. The petitioner has also challenged the order dated 21.09.2020, passed by the Director General of Police, Bihar, Patna, rejecting the memorial filed by the petitioner.

2. The brief facts of the case, according to the petitioner are that the petitioner was appointed as a Constable with the Bihar Police, has rendered more than 20 years of service and has



also been promoted to the post of Assistant Sub-Inspector of Police, apart from being rewarded on several occasions for his sincere and disciplined service. It is stated that while the petitioner was posted as Assistant Sub-Inspector of Police at Saharsa Police Kendra, Saharsa but was on deputation for Karakat Lok Sabha Election at Manjhauli, under Sanjhauli Police Station, he was allegedly found having consumed liquor during duty hours, hence was sent to judicial custody pursuant to lodging of an F.I.R. bearing Sanjhauli P.S. Case No.67 of 2019 dated 19.05.2019 under Section 37 (B) of the Bihar Prohibition and Excise Act, 2016, whereafter he was released on bail on 20.05.2019. A memo of charge dated 27.06.2019 was served upon the petitioner and a departmental proceeding bearing no. 13/19 was initiated by the Superintendent of Police, Saharsa, whereafter the petitioner had participated in the departmental inquiry and the Inquiry Officer had submitted his Inquiry Report dated 19.03.2020, finding all the charges to have been proved qua the petitioner herein. A second show-cause notice dated 29.04.2020 was then issued to the petitioner, to which the petitioner had filed a reply on 08.05.2020. The Deputy Inspector General of Police, Koshi Range, Saharsa, had then passed the impugned order of punishment of dismissal



from service on 11.05.2020, which was challenged by the petitioner, by filing a memorial, however the same has also stood rejected by the impugned order dated 21.09.2020.

3. The learned counsel for the petitioner has though submitted that consumption of liquor by the petitioner could not have been proved merely on the basis of Breathalyzer Test, however, he has confined his argument to the issue of non-observance of the principle of proportionality, while imposing punishment upon the petitioner, inasmuch as the petitioner has rendered unblemished service of about 20 years and has also been promoted to the post of Assistant Sub-Inspector of Police, apart from having been awarded for his sincere and disciplined service. It is also submitted that there is no evidence of any past conduct of similar nature and in fact the petitioner has not been alleged to have created any pandemonium while on duty, hence the punishment of dismissal from service, inflicted upon the petitioner is excessive and disproportionate to the gravity of charges levelled against the petitioner.

4. Per contra, the learned counsel for the respondent-State has vehemently opposed the present writ petition and has submitted that the witnesses have supported the allegation regarding the petitioner having been found drunk on duty, which



has also stood substantiated by the Breathalyzer Test, as would be apparent from the Inquiry Report dated 19.03.2020. It is also submitted that police force being a disciplined force, no indiscipline can be tolerated, especially in wake of the fact that in the State of Bihar, liquor is prohibited. It is also submitted that the contention of the petitioner to the effect that the petitioner is having an unblemished career is not correct, inasmuch as he has been inflicted punishment on two earlier occasions, nonetheless, it is submitted that if the case of the petitioner is referred back to the respondent-authorities on the issue of proportionality of the punishment inflicted upon the petitioner, the Disciplinary Authority shall definitely have a re-look over it.

5. I have heard the learned counsel for the parties and gone through the materials available on record. This Court, upon having weighed all the facets, i.e. the nature of the charges levelled against the petitioner, there being no record of any incident of the petitioner having consumed liquor in the past, the petitioner having not created any pandemonium during the course of the alleged incident and moreover, he having rendered unblemished service of about 20 years, this Court is of the view that the punishment inflicted upon the petitioner, i.e. dismissal



from service, is not commensurate to the gravity of charges levelled against him, hence the said aspect of the matter is required to be examined afresh by the Disciplinary Authority. Reference in this connection be had to the judgment rendered by the Hon'ble Apex Court in the case of **B.C. Chaturvedi v. Union of India**, reported in (1995) 6 SCC 749, the one rendered in the case of **Union of India v. G. Ganayutham**, reported in (1997) 7 SCC 463 and the one rendered in the case of **Kailash Nath Gupta v. Enquiry Officer**, reported in (2003) 9 SCC 480.

6. Having regard to the facts and circumstances of the case, considering the materials available on record and for the reasons mentioned hereinabove as also in view of the law laid down by the Hon'ble Apex Court in the aforementioned cases, I deem it fit and proper to quash the order of punishment dated 11.05.2020, passed by the Deputy Inspector General of Police, Koshi Range, Saharsa as also the order dated 21.09.2020, passed by the Director General of Police, Bihar, rejecting the memorial filed by the petitioner and remit the matter back to the Disciplinary Authority to re-consider the issue of quantum of punishment inflicted upon the petitioner and pass appropriate orders within a period of four weeks of receipt/production of a



copy of this order.

7. It is needless to state that the consequential benefits as a result of quashing of the order of punishment dated 11.05.2020 and the order dated 21.09.2020, passed on the memorial filed by the petitioner, shall abide by the final decision to be taken by the Disciplinary Authority regarding the quantum of punishment to be imposed upon the petitioner.

8. The writ petition stands allowed to the aforesaid extent.

(Mohit Kumar Shah, J)

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AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	13.03.2024
Transmission Date	N/A

