

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10488 of 2024

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Raja Kumar Singh S/o Sri Munshi Singh Resident of village -Sabdara, P.S -
Manjhi, P.O. Bangra, District - Saran (Chappra).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department,
Government of Bihar, Patna.
2. The Principal Secretary, Home Department, Government of Bihar, Patna.
3. The Inspector General of Police, Darbhanga, Bihar.
4. The Deputy Inspector General of Police, Darbhanga, Bihar.
5. The Superintendent of Police, Samastipur, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Riya Giri, Advocate Mr. Sumit Kumar Jha, Advocate
For the Respondent/s	:	Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 16-07-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that the present writ petitioner has been filed for setting aside the order contained in Memo No.1446 dated 02.06.2020, issued under the signature of Superintendent of Police, by which the contract of the petitioner as contractual driver has been terminated with effect from 09.08.2019 and a direction was given to delete the name of the petitioner from all the registers.

3. Learned counsel for the petitioner submits that his termination has been made in complete violation of natural



justice and it is basically stagmatic in nature and, therefore, not tenable in the eye of law and liable to be quashed. Learned counsel further submits that after passing the order by the Superintendent of Police, the petitioner has preferred appeal before the D.I.G. of Police dated 28.05.2024, but the said memo is pending before the D.I.G. and no order has been passed as yet.

4. Learned counsel for the State submits that it is the admitted case of the petitioner that petitioner is a contractual driver and his appointment has been made in the light of the Circular of Personnel and Administrative Reform Department dated 18.07.2007 in which the services of contractual employee has not been treated at par with the regular employee and they are not be treated as government servant and also not be entitled for any benefits related to government servant. He submits that in that view of the matter, there is no need of any conduction of departmental proceeding in the light of CCA Rules, 2005.

5. In response thereof, counsel for the petitioner relied on a judgment of Hon'ble Supreme Court in the case of **A.P. State Federation of coop. Spinning Mills Ltd. and Another Vs. P.V. Swaminathan** reported in (2001) 10 SCC 83 and submits that it has been held by the Hon'ble Supreme Court that



the legal position is fairly well settled that an order of termination of a temporary employee or a probationer or even a tenure employee, a simpliciter without casting any stigma may not be interfered with by the Court, but when there is a stigma then natural justice ought to be followed.

6. Upon hearing the parties and going through the records as well as judgment on which the counsel for the petitioner relied, this Court is of the firm view that treatment to the contractual employee cannot be granted any status at par with the regular employee, particularly, as per the term of appointment, i.e., Resolution of Personnel and Administrative Reform Department dated 18.07.2007. By the conditions of the said circular the petitioner has bind himself, as such, the CCA Rules, 2005 shall not apply, but on the other hand the rule of natural justice ought to be followed. In this case it transpires to this Court that from the removal letter, it is clear that show cause has been given to the petitioner, but it is also true that after order passed by the Superintendent of Police the petitioner has preferred the matter before the higher authority, i.e., Inspector General of Police which is still pending. Therefore, this Court without entering into the merit of the present case, so far as the petitioner's plea are concerned, only directs to



respondent No.3, the Inspector General of Police, that he shall pass order considering the points of the petitioner mentioned in the application/memo pending before him within 90 days from the date of receipt/ production of a copy of the order. Liberty is also granted to the petitioner that he may add some more points, if requires, along with the order.

7. With this direction, this writ petition is disposed off.

(Dr. Anshuman, J)

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