

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.197 of 2022

In
Letters Patent Appeal No.1318 of 2019

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Md. Rajjak @ Razzak, Son of Md. Shamsher, Resident of village - Gazipur
Tarapur, P.S. - Tarapur, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Govt. of Bihar, Patna.
3. The Deputy Inspector of Police, Eastern Region, Bhagalpur.
4. The Senior Superintendent of Police Appointing Cum Disciplinary Authority, Bhagalpur.
5. The Superintendent of Police, Bhagalpur.
6. The Conducting Officer of Departmental Proceeding-cum-Deputy Superintendent of Police Head Quarter.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raju Giri, Advocate

For the Opposite Party/s : Mr. Saroj Kumar Sharma, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

8 10-12-2024 We have heard Mr. Raju Giri, the learned

Advocate for the review petitioner and Mr. Saroj Kumar

Sharma, the learned Advocate for the State.

2. The petitioner, a constable, was dismissed

from service for his having demanded illegal money from

the drivers of the vehicles crossing a particular bridge

while he was posted as a constable there. A video footage



of this happening was shown to the Superintendent of Police of the concerned district who, taking a serious view of the matter, recommended for departmental proceeding against the petitioner.

3. The charge against the petitioner was that the Officer-in-Charge of the Traffic Police Station had reported to the SSP that the petitioner was identified amongst four other police personnel who were found accepting illegal money from the truck drivers/conductors. A Dy.SP (Headquarter) was appointed as the Inquiry Officer who submitted his report on 13.12.2017. The petitioner was also shown the video footage during inquiry. A Reader in the confidential section of the SSP's office certified that the CD of the video footage was not tampered. The Officer-in-Charge of the Traffic Police Station had also appeared in the departmental inquiry as a witness who proved the report.

4. The petitioner was dismissed from service and his appeal too was dismissed.



5. He agitated before a learned Single Judge of this Court, who on finding that a false plea of the video tape not having been supplied to the petitioner, took exception to it and dismissed the writ petition.

6. Basing his judgment on the observation of the Supreme Court in the case of ***K.D. Sharma vs. Steel Authority of India Ltd. and Ors. (2008) 12 SCC 481*** and ***R. v. Kensington Income Tax Commrs. (1917) 1 KB 486***, the learned Single Judge found that the petitioner had lost his right to challenge his dismissal order as he had not come to Court with clean hands.

7. Precisely, for the same reason, his appeal before the Division Bench was also dismissed.

8. The petitioner has payed for review of the appellate order passed in LPA No. 1318 of 2019.

9. On perusal of the order, it appears that the Appellate Court also agreed with the learned Single Judge that despite the petitioner having received the video footage in question, had falsely made a plea, to deflect



the course of justice, that the CD was not supplied to him.

10. Mr. Giri, while seeking review of the orders, has submitted that there was no proof of any demand or payment of money and that only on vague assertion that the petitioner was posted as constable at a particular place of which a video was taken, he was dismissed from service. Many a times, pleas are taken in Courts of law but for one plea to be found false, the petitioner ought not to have been non-suited only on that ground.

11. He has further submitted that in the same transaction, the services of the other constables, who also featured in the video footage, have been restored, though they have been punished with lesser penalty.

12. The principles relating to review jurisdiction is well ordained and settled. A review is maintainable only in the event of discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of the petitioner or could not be produced by him; (2) mistake or error apparent on face of



record and (3) for any other sufficient reason.

13. The expression 'any other sufficient reason' is not wide enough to include the perception of the Court regarding the petitioner that he had not approached the Court with clean hands. Any other sufficient reason would only include such grounds which are analogous to the other two stipulated grounds under Order 47 Rule 1 of the CPC.

14. This Court cannot go into the question of sufficiency of the materials against the petitioner for his having been slapped with a dismissal order nor can this Court in the review jurisdiction entertain any plea of the Appellate Court being unduly harsh on the petitioner.

15. We have found that such plea of the video footage not being supplied to the petitioner was taken before the Single Judge also, which plea was not found to be correct.

16. Under such circumstances, without commenting on the merits of the case of the petitioner,



we find that no case has been made out for review of the
order passed by the Appellate Court.

17. The review petition is thus dismissed.

(Ashutosh Kumar, J)

(Rajesh Kumar Verma, J)

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