

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14763 of 2024

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Tinku Kumar Son of Mithilesh Kumar Resident of Village and P.O.-
Sikandarpur, P.S.- Shakurabad, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police), Govt. of Bihar, Patna.
2. The Divisional Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Jehanabad.
4. The Superintendent of Police, Jehanabad.
5. The Additional District Magistrate, Jehanabad.
6. The Sub-Divisional Officer, Jehanabad.
7. The Circle Officer, Ratni Faridpur, District- Jehanabad.
8. The Officer-in-charge, Shakurabad Police Station, District- Jehanabad.
9. Arvind Paswan, son of Ram Ishwar Paswan resident of Village and P.O.-
Sikanderpur P.S.- Shakurabad District- Jehanabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harsh Anuj, Advocate
For the Respondent/s : Mr. Manoj Kumar Yadav, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

2 30-09-2024 Heard Learned Counsel for the petitioner and Learned
Counsel for the State.

2. The present writ petition has been filed for quashing the order dated 30.05.2024 passed in Service Appeal No.206 of 2023 by respondent No.2, the Divisional Commissioner, Magadh Division, Gaya, by which he had set aside the order of respondent No.3 issued vide Memo No.1248 dated 16.10.2023 in relation to the dismissal from service of



respondent No.9.

3. Learned Counsel for the petitioner submits that the said order be quashed due to the reason that respondent No.9 got appointment on fake date of birth certificate on the post of Choukidar. He also submits that he has filed complaint against private respondent No.9 and on his complaint departmental proceeding has been initiated against private respondent No.9. In the said proceeding conducted under the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 (hereinafter referred to as the 'CCA Rules, 2005') he was removed from service against which respondent No.9 had filed the departmental appeal. Now the complainant is aggrieved from the order passed in appeal and he has filed the present writ petition.

4. Learned Counsel for the State raised preliminary objection and submits that under the CCA Rules, 2005, the proceeding may be initiated on the basis of complaint, which may be received from any corner. But once the proceeding has been initiated then in that case it is a matter between the employer and the employee. He submits that here in the present case the petitioner is the stranger, who has filed complaint against private respondent No.9. On his complaint departmental



proceeding had been conducted and by the Disciplinary Authority he was removed from service. But, subsequently, in service appeal the Appellate Authority has removed the punishment of removal and instead thereof directed him to accept his date of birth after correction.

5. After hearing the parties, it transpires to this Court that the present writ petition has been filed against the order passed in Service Appeal and the Original as well as the Appellate Authority after considering the complaint and allegations made in the complaint petition held an independent departmental enquiry and reached on conclusion. But from the said decision, neither the delinquent nor the employer (State Government) is aggrieved; rather the complainant who made complaint against private respondent No.9 is aggrieved. Under the CCA Rules, 2005 there is no scope for the complainant to challenge the decision of the Disciplinary Authority or Appellate Authority. Further he is only competent to file complaint on which discretion is on the Disciplinary Authority to take action or not. Here in the present case, action was taken, order had been passed and the said order passed by the Disciplinary Authority has been challenged before the Appellate Authority under the statute upon which Appellate Authority has passed



reasoned order. This Court is of the view that a complainant (like petitioner) can sue under the Bihar CCA Rules, 2005 either being a complainant or a witness or both but not as the party. It is not permissible to file appeal, review or revision by him.

6. In this view of the matter, the writ petition stands dismissed.

(Dr. Anshuman, J)

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