

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22037 of 2018

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Niraj Kumar Son of Kulanand Mishra, Resident of Village- Lahana, Police Station- Triveniganj, District- Supaul, Presently posted as Superintendent of Police, Purnia Police Force, Purnia.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Inspector General of Police, Bihar, Patna.
3. The Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
4. The Superintendent of Police, Samastipur.
5. The Conducting Officer cum Sub Divisional Police Officer, Dalsinghsarai, District Samastipur.
6. The Conducting Officer-cum-Deputy Superintendent of Police Headquarter, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Nath Dubey, Advocate

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

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 13-03-2024

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

2. The present writ petition has been filed for quashing of the order contained in Memo No. 1935 dated 26.07.2018 as well as for quashing of the order contained in Memo No.1018 dated 25.09.2018 passed by respondent Nos. 4 and 3 respectively (original and appellate authority).



3. Learned counsel for the petitioner submits that the petitioner was working as Officer-in-charge, Singhia Police Station in district Samastipur during which a punishment order has been passed against him. The said order has been passed by the Superintendent of Police. In the Bihar Police Manual, the Superintendent of Police is not the competent authority to pass the major punishment against the S.I. rather it is the D.I.G. who is competent authority. Learned counsel relied upon a judgment passed by this Court on 26.02.2024 in CWJC No. 1635 of 2019 in which it has been discussed in paragraph 5 as under :-

5. Upon hearing the parties and on perusal of the documents, it transpires to this Court that the day on which the departmental proceeding has been initiated the petitioner was working on the post of Station House Officer at the rank of Sub Inspector. It transpires to this Court that services of petitioner has run in accordance with Bihar Police Manual, 1978, and disciplinary proceeding has to run in accordance with CCA Rules, 2005. From the Appendix-41 of Volume-III of Bihar Police Manual, 1978, it is clear that for person working at the rank of Sub-Inspector the appointing authority as well as prompting authority is the Deputy Inspector General, whereas from Appendix-84 which has been prepared in the light of Rule 825(f) of the Bihar Police Manual, 1978, that for Sub-Inspector the authority competent to pass order of punishment or suspension either major, minor or reduction in rank



is the Deputy Inspector General of Police, whereas in the present case from Annexure-1 it transpires that the said order of punishment has been passed by the Superintendent of Police. As such, it becomes crystal clear that order passed at Annexure-1 is basically a non jurisdictional order as under the Bihar Police Manual the Superintendent of Police is not competent to pass order of punishment for S.I. it is the D.I.G. is competent. Here in the present case, the DIG who is the original authority to pass the punishment has passed the order in appeal and, hence, this Court is of the firm view that both the orders are non jurisdictional and, therefore, fit to be set aside. Hence, the order contained in Memo No.1718 dated 18.07.2018 passed by Disciplinary Authority-cum-Superintendent of Police(Annexure-1) as well as appellate order contained in Memo No.1421 dated 20.12.2018 passed by Deputy Inspector General of Police, Darbhanga Range, Darbhanga, are hereby set aside.”

4. Learned counsel for the State, on the other hand, submits that the aforesaid orders have been passed completely in accordance with law.

5. In the light of the submissions made and the ratio laid down in the case of **Pankaj Kumar Panth vs the State of Bihar and Ors.** in CWJC No. 1635 of 2019 on 26.02.2024, the orders passed by the original authority dated 26.07.2018 contained in Memo No. 1935 as well as the order passed by the



appellate authority dated 25.09.2018 contained in Memo No. 1018 are hereby set aside.

6. The respondents are free to take steps against the petitioner in the departmental proceeding in compliance with CCA Rules, 2005. But the said action shall be concluded within 90 days from the date of receipt/production of a copy of this order.

7. Accordingly, the writ petition is allowed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	15/03/2024
Transmission Date	NA

