

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4084 of 2020

Prakash Kumar Paswan S/o Ramesh Manjhi, R/o Village- Nawada, Post-
Mukrera, P.S. Revelganj, Dist.- Chapra, PIN 841301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Home Department,
Government of Bihar, Patna.
2. The Director General of Police- cum-I.G. of Police, Bihar, Patna.
3. The D.I.G. of Police, Shahabad- Range, Dehri on-son.
4. The S.P. of Rohtas (Dehri).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gaurav Prakash with Mr. Arvind Kumar, Advocates
For the Respondent/s	:	Mr. Suman Kr. Jha, AC to AAG 3

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 03-03-2025

Heard Mr. Gaurav Prakash, learned Advocate for the
petitioner and Mr. Suman Kumar Jha, learned Advocate for the
State.

2. The challenge in the present writ petition has been
made to the order of dismissal passed by the Superintendent of
Police, Rohtas in D.P. No. 3 of 2016 vide Rohtas District Order
No. 370/2017 read with Memo No. 682 dated 14.02.2017, on
the sole ground of subsequent acquittal of the petitioner by the
learned trial court in Trial No. 868 of 2019, wherein the
petitioner has been acquitted vide judgment dated 05.11.2019,
passed by the learned Sub-Divisional Magistrate, Dehri-on-



Sone, Rohtas.

3. Learned Advocate for the petitioner has contended that the issue posed before this Court is in narrow compass. The petitioner was duly appointed to the post of Constable pursuant to an advertisement published by the Central Selection Board of Constable, Bihar, Patna. On being selected, appointment letter was duly issued in favour of the petitioner, vide Memo No. 414/CSB dated 23.06.2015; pursuant thereto the petitioner submitted his joining. While the petitioner was on duty, in the meantime, the Superintendent of Police, Rohtas vide different orders requested the Chairman, Central Selection Board of Constable to enquire about the candidature of the petitioner. Upon such request, the inquiry was conducted and it has been found that the signature/thumb impression of the petitioner was mismatched with the handwriting on the answer book as well as the signature/thumb impression; the Central Selection Board also certified that prima facie it appears that in place of the petitioner different candidate had appeared, who anyhow made the petitioner successful in the written examination and as such he was found to be involved in cheating and forgery. In this effect, a letter has been issued by the Officer on Special Duty, Central Selection Board of Constable as contained in Memo No. 1181



dated 31.10.2015. In consequent to the inquiry report aforenoted, an FIR has also been instituted against the petitioner bearing Dehri Town P.S. case No. 508 of 2015 registered for the offences punishable under Sections 419, 420 and 120B of the Indian Penal Code. With similar charges, the petitioner was put to departmental proceeding and on being found the charges proved it culminated into dismissal of the petitioner.

4. Adverting to the aforesaid facts, learned Advocate for the petitioner further contended that it is the admitted position that for the same charges, the departmental proceeding as well as criminal proceeding was initiated, however with respect to the charges levelled in the FIR, the petitioner was put to trial in Trial No. 868 of 2019 and the petitioner stands acquitted from all the charges as the prosecution has failed to prove the same beyond all its reasonable doubt vide judgment dated 05.11.2019 passed by the court of learned Sub-Divisional Magistrate, Dehri-on-Sone, Rohtas.

5. In view of the subsequent development, learned Advocate for the petitioner contended that once the charges are identical and the evidences are same in both the proceedings, in case of acquittal of the delinquent by the learned trial court, the disciplinary authority ought to review the order of dismissal. To



support the afore noted contention, reliance has also been placed on a decision rendered by the Apex Court in the case of ***Capt. M. Paul Anthony vs. Bharat Gold Mines Ltd.& Ors.](1999) 3 SCC 379***. It is further contended that in identical situation, when a constable was visited with the punishment of dismissal from service by the Superintendent of Police, Railway, Muzaffarpur which order was also affirmed by the Deputy Inspector General, but subsequent thereto the delinquent, who was facing a criminal proceeding based upon the same set of charges, on being acquitted, this Court vide order 23.07.2019 in CWJC No. 16293 of 2014 has disposed of the writ petition giving liberty to the delinquent to approach before the competent authority for re-consideration of punishment in view of the law laid down by the Apex Court in the case of ***Capt. M. Paul Anthony (supra)***.

6. Learned Advocate for the petitioner in the aforesaid premise prays for re-consideration of the order of dismissal inflicted upon the petitioner.

7. On the other hand, learned Advocate for the State referring to the judgment passed by the learned trial court, has submitted that the same is not honourable acquittal, rather the witnesses did not turn up, resulting into acquittal of the petitioner. However, he further submits that the petitioner would



be entitled to the benefit only when his case comes within the parameters of the law laid down by the Apex Court as noted hereinabove.

8. In view of the submissions advanced on behalf of the learned Advocates for the respective parties as well as considering the limited grievance of the petitioner, based upon the mandate of the Hon’ble Supreme Court, the writ petition stands disposed of with a liberty to the petitioner to approach before the respondent no. 4, who shall re-consider the order of dismissal in view of the mandate of the Apex Court in the cases of *Capt. M. Paul Anthonyi (supra)*, *G.M. Tank vs. State of Gujarat & Ors. [(2006) 5 SCC 446]* and *Ram Lal vs. State of Rajasthan & Ors. [(2024) 1 SCC 175]*, which rullings entirely govern the issue raised before this Court. It is expected that this exercise must be concluded, preferably within a period of three months from the date of receipt/production of a copy of this order.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	05.03.2025
Transmission Date	

