

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7612 of 2021

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Lalan Kumar Sharma son of Late Tapeswar Prasad Sharma resident of
Village - Khaira, P.O. - Dihaira, P.S. - Naubatpur, Dist. - Patna - 801109.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home,
Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Central Range, Patna.
4. The Superintendent of Police, Nalanda, Bihar.
5. The Deputy Superintendent of Police, Nalanda, Bihar.
6. The Deputy Superintendent of Police (Traffic), Biharsharif, Nalanda.
7. The S.H.O., Harnaut Police Station, Harnaut, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bipin Krishna Singh, Advocate
For the Respondent/s : Mr. Manish Kumar, GP 4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 27-06-2025

In the instant writ petition, petitioner has prayed for
the following reliefs :

*“(i) For quashing of the order dated
24.04.2020 containing in memorandum number
2408/र०का० where under Nalanda District Order
number 855/2020 signed by the Superintendent of
Police, Nalanda has been issued whereby and where
under the petitioner has been awarded the
punishment of ‘Dismissal from service’.*

*(ii) For quashing of the order dated
11.06.2020 containing in memorandum number
3269/ वि० का० where under Nalanda District Order
number 1148/2020 signed by the Superintendent of*



Police, Nalanda has been issued whereby it has been communicated that the appeal filed by the petitioner against the punishment order has been dismissed by the Appellate Authority.

(iii) For issuance of direction to the respondent authorities for reinstatement of the petitioner in service with all consequential benefits.

(iv) For a further direction to the respondents to treat the suspension period of the petitioner as on duty as Rule 840(a) of the Bihar Police Manual clearly stipulates that 'suspension is authorized only in cases in which the continuance on duty of an officer pending enquiry into his conduct is prejudicial to public interest' and the officials themselves had considered petitioner's participation in duty not prejudicial to public interest during a brief period of election duty and had revoked his suspension for that limited period.

(v) For any other relief or reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case."

2. Petitioner has joined as a Constable and posted at Chero Out Post under Harnaut Police Station in the district of Nalanda. On 07.02.2019, he was involved for the offences under the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as 'the Act, 2016') as he was found in inebriated condition, while he was on duty which led to institution of criminal case under the Act, 2016 and initiation of departmental proceedings under the Bihar Government Servant (Classification, Control and Appeal)



Rules, 2005. Consequently, Inquiry Officer and Presenting Officer were appointed and on 12.04.2019. Thereafter, he was subjected to inquiry. The Inquiry Officer submitted report on 18.03.2020. On receipt of Inquiry Officer's report, disciplinary authority proceeded to pass penalty order on 12.04.2019 insofar as imposing penalty of dismissal from service. Feeling aggrieved by the order of penalty, petitioner preferred appeal which was rejected on 31.05.2019 while affirming the order of the disciplinary authority. The petitioner's revision application, preferred against the said order dated 31.05.2019 was held to be not entertainable and maintainable. Hence, the petitioner preferred CWJC No. 17585 of 2019 and it was remanded with a direction to the disciplinary authority to proceed afresh from the stage of defective inquiry while quashing the orders of the disciplinary authority and appellate authority dated 12.04.2019 and 31.05.2019.

3. The petitioner has been reinstated on 31.12.2019. After reinstatement, fresh charge memo to the petitioner was issued on 24.01.2020 to which reply has been submitted by the petitioner on 17.02.2020 and 14.03.2020. The Inquiry Officer submitted report on 18.03.2020. Taking note of the report of the Inquiry Officer, disciplinary authority proceeded to pass penalty



order on 24.04.2020. Feeling aggrieved by the order of the disciplinary authority, petitioner preferred appeal on 21.05.2020 which was rejected on 11.06.2020. Hence the present writ petition.

4. Learned counsel for the petitioner submitted that petitioner is entitled to be exonerated in the disciplinary proceedings. He has further submitted that result of breath analyzer test is the only basis for holding the petitioner guilty of the charge of having consumed alcohol, which cannot be said to be conclusive to prove the charge and the petitioner was not subjected to medical *i.e.* blood and urine tests and only subjected to breath analyzer test. In the absence of these crucial material information, respondents have proved the charge only on presumption and conjectures. Further, imposition of penalty of dismissal from service, on account of alleged consumption of liquor, would be too harsh for the reasons that the petitioner has already served more than twenty years of service with reference to his initial appointment. In the light of these facts and circumstances, the petitioner has made out a case so as to interfere with the impugned decision of dismissal order. Hence, orders of dismissal dated 24.04.2020 and appellate authority order dated 11.06.2020 stand set aside.



5. Matter is remanded to the disciplinary authority to impose penalty other than major penalty. The concerned respondent is hereby directed to reinstate the petitioner within a period of one month and extend all consequential benefits from the date of dismissal till reinstatement. While imposing other than major penalty, the disciplinary authority is hereby directed to issue a detailed notice to the petitioner and petitioner shall submit his explanation and, thereafter, the disciplinary authority is hereby directed to proceed to impose one of the minor penalty.

6. With the above observation, present writ petition stands allowed in part.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	02.07.2025
Transmission Date	

