

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10384 of 2016

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Akhilesh Kumar S/o Late Suresh Kumar Verma R/o- Shikshak Colony, WArD No- 5, Ajam nagar, District- Darbhanga was working as Police Constable No-559 District- Sitamarahi

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Home, Bihar, Patna.
2. The Inspector General , Muzaffarpur Police Region, Muzaffarpur.
3. The Deputy Inspector General , Tirhut Police Region, Muzaffarpur.
4. The Police Superintendent cum Disciplinary Authority, Sitamarhi.
5. The Principal cum Superintendent, Training Centre, Motihari, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Manoj, Advocate
For the Respondent/s : Mrs. Binita Singh, SC-28

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 01-07-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. The present writ petition has been filed for issuance of appropriate writ/writs for quashing and setting aside the letter bearing Memo No.2311 dated 28.11.2010, Ziladesh No.1360 of 2010, letter bearing Memo No.1809 dated 06.10.2015 and letter bearing Memo No.4748 dated 24.11.2015 has been issued by respondent Nos.4, 3 and 2 respectively, and further prayer for commanding the respondents to reinstate the petitioner with consequential benefit.



3. Learned Counsel for the petitioner submits that being aggrieved and dissatisfied with the punishment order the petitioner has preferred appeal before the Appellate Authority-cum-D.I.G., Tirhut Police Region, Muzaffarpur, but his appeal has been rejected treating it time barred, which is apparent from Annexure-1/2, contained in Memo No.4748 dated 24.11.2015.

4. Learned Counsel for the State raised preliminary objection and submits that rejection of appeal on the ground of time barred has been made in the light of Rule 852 of the Bihar Police Manual, 1978.

5. It transpires to this Court that petitioner was appointed on the post of constable on compassionate ground vide Memo No.1428 dated 25.03.2006 and by virtue of departmental proceeding he was removed from service with effect from 28.11.2010 contained in Memo No.2311 (Annexure-1).

6. It is well known that appeal is reconsideration of the entire case by the higher authority against the decision of the lower authority on merit. The remedy of appeal is basically statutory power and here in the present case on the ground of delay the petitioner's appeal could not be heard.

7. In the interest of justice, it transpires to this Court



that appeal of petitioner should be heard on merit. Therefore, the order contained in Memo No.4748 dated 24.11.2015 is hereby set aside. The respondent No.3 is hereby directed to consider the appeal of the petitioner arising from disciplinary proceeding No.6409 against the petitioner constable No.559, whose services have been terminated vide order dated 28.11.2010.

8. It is directed that the petitioner shall file fresh memo of appeal and the delay, if any, in filing the appeal is hereby directed to be condoned. It is made clear that respondent No.3 shall pass order on the appeal of the petitioner within 90 days from the date of receipt/production of a copy of this order along with the memo of appeal.

(Dr. Anshuman, J)

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