

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16403 of 2013

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Anant Kumar Singh Son of Tarkeshwar Singh Resident of Village P.O. and
P.S. Dharhara, District - Munger

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Police, Central Range, Patna Null Null
4. The Deputy Inspector General of Police, Central Range, Patna
5. The Senior Superintendent of Police, Patna
6. The Superintendent of Police, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ajit Kumar Singh, Advocate
For the Respondent/s	:	Mr. Prashant Pratap, GP-2
		Mr. Shadwal Harsh, AC to GP-2

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 12-12-2025

1. Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner has filed the instant application
challenging the order dated 10.6.2006 passed by the Senior
Superintendent of Police, Patna dismissing the petitioner from
service. Further challenge is to the order dated 5.12.2006 passed
by the Deputy Inspector General of Police (D.I.G.), Patna
rejecting the appeal preferred by the petitioner as also the order
dated 27.5.2013 whereby the memorial was dismissed by the
Director General of Police, Bihar.



3. It is the case of the petitioner that he was proceeded against by service of a charge-sheet on 16.5.2002 on the charge therein that inspite of directions given to him by various letters including dated 21.8.2001 and 27.8.2001 in connection with the appointment of the petitioner against Advertisement no.1 of 1998 for him to appear physically for comparison/matching of his photograph, inspite of repeated directions the petitioner did not appear which lead to the petitioner being suspended by order dated 17.9.2001. It was stated that the act of the petitioner reflected gross indiscipline and defiance of the order. The petitioner filed his reply and the enquiry proceeded. On conduct of the enquiry, the Conducting Officer found the charge to have been proved.

4. On submission of the enquiry report, the Disciplinary Authority i.e. the S.S.P., Patna by order dated 10.6.2006 was pleased to dismiss the petitioner from service with a further direction that he would not be paid any other amount for the suspension period except the subsistence allowance. The petitioner preferred an appeal before the D.I.G., Patna which was rejected vide order dated 5.12.2006.

5. It is contended by learned counsel for the petitioner that the petitioner was proceeded against in a criminal case for



similar charges which ended in acquittal of the petitioner vide judgment dated 30.1.2013 passed in Trial no.521 of 2013 (G.R. no.152 of 2003) by the Judicial Magistrate Ist Class, Patna.

6. The petitioner having been acquitted in the criminal case, he once again preferred an appeal before the D.I.G., Patna which was again rejected and the same was communicated to the petitioner vide letter dated 7.6.2013 (Annexure-1 series).

7. The petitioner preferred a memorial against the order of rejection of his appeal on 5.12.2006 which came to be rejected by order dated 27.5.2013 passed by the Director General of Police (D.G.P.), Bihar on the ground of the same being time barred.

8. It is against these orders that the petitioner has preferred the instant application.

9. Learned counsel for the petitioner submits that the charges levelled in the departmental proceeding as also the criminal case are identical and the witnesses examined on behalf of the respondents/prosecution were also the same. The witnesses not having supported the prosecution case leading to acquittal of the petitioner in the criminal case, there was no material for the Enquiry Officer to come to the conclusion that the charges against the petitioner had been proved.



10. It is further submitted that so far as the direction of the respondents for the petitioner to appear on 27.8.2001 for his physical verification is concerned, the petitioner after having filed an application and having obtained casual leave had proceeded for the treatment of his wife and as such he could not appear. The orders of punishment passed by the respondents besides being disproportionate, is not sustainable for the reason of the petitioner not having been given adequate opportunity to defend himself. Thus the orders suffer from the vice of principles of natural justice. The same be set aside and the writ application be allowed.

11. The application is opposed by learned counsel for the respondents. It is submitted that the petitioner having been dismissed as also his appeal having been rejected in the year 2006, the petitioner preferred the memorial before the D.G.P., Bihar only in the year 2013 and as such the same was rightly rejected on the ground of the same being time barred. In support of this contention learned counsel relies on the judgment of the Supreme Court in the case of **Mrinmoy Maity vs. Chhanda Koley & Ors.**; (2024) 15 SCC 215/2024 LiveLaw (SC) 318.

12. It is further submitted that the ground of the petitioner's acquittal in a criminal case is of no assistance to the



petitioner so far as the departmental proceeding is concerned for the reason that the proof required in the the two proceedings are distinct and different. In support of this contention, learned counsel relies on the judgment of the Hon'ble Supreme Court in the case of **Samar Bahadur Singh vs. State of Uttar Pradesh & Ors.; (2011) 9 SCC 94.**

13. Learned counsel appearing for the respondents further submits that even from the judgment passed in the criminal case, it would transpire that it is not a case of honourable acquittal of the petitioner but was for the reason of the relevant prosecution witnesses not having been examined. In support of this contention, learned counsel relies on the judgment of the Hon'ble Supreme Court in the case of **Deputy Inspector General of Police vs. S. Samuthiram; (2013) 1 SCC 598.**

14. Heard learned counsel for the parties and perused the material on record.

15. The relevant facts in brief are that the petitioner, who happens to be a Constable, having been proceeded against in a departmental proceeding was served with a memo of charge/charge-sheet to which he submitted his reply, the charge being that the photograph and the signature of the petitioner in



the application form submitted by him at the time of his appointment did not match the petitioner's actual photograph and his signature. In spite of the direction to the petitioner to appear for verification of the same, the petitioner did not appear nor participated in the same. In response to the memo of charge, the petitioner submitted his reply on which the enquiry proceeded.

16. The Conducting Officer on conclusion of the enquiry came to the conclusion that the charges against the petitioner were proved. The appeal and the memorial of the petitioner having been rejected by the D.I.G., Patna and the D.G.P., Bihar, the order of punishment of dismissal inflicted by the S.S.P., Patna was affirmed.

17. So far as the contention of the petitioner that the witnesses in the criminal proceedings as also the departmental proceeding were the same and the witnesses in the criminal case had not supported the case against the petitioner, it may be mentioned here that so far as the standard of proof required in a criminal case and in a departmental proceeding are concerned, the same are completely different. While in a criminal case the prosecution is required to prove the case beyond all reasonable doubt, in a departmental proceeding, the proof required against



the delinquent is of preponderance of probability. The Hon'ble Supreme Court in the case of **Samar Bahadur Singh** (*supra*) has held as follows :-

“7. Acquittal in the criminal case shall have no bearing or relevance to the facts of the departmental proceedings as the standard of proof in both the cases are totally different. In a criminal case, the prosecution has to prove the criminal case beyond all reasonable doubt whereas in a departmental proceedings, the department has to prove only preponderance of probabilities. In the present case, we find that the department has been able to prove the case on the standard of preponderance of probabilities. Therefore, the submissions of the counsel appearing for the appellant are found to be without any merit.”

18. It would also be relevant to take note of the fact that in the judgment in the criminal case, it is not a case of criminal acquittal of the petitioner. For this purpose, it would be relevant to refer to the judgment of the Hon'ble Supreme Court in the case of **Deputy Inspector General of Police vs. S. Samuthiram** (*supra*) wherein the Hon'ble Supreme Court has held as follows :-

“Honourable Acquittal

24. The meaning of the expression “honourable acquittal” came up for



consideration before this Court in RBI v. Bhopal Singh Panchal [(1994) 1 SCC 541 : 1994 SCC (L&S) 594 : (1994) 26 ATC 619] . In that case, this Court has considered the impact of Regulation 46(4) dealing with honourable acquittal by a criminal court on the disciplinary proceedings. In that context, this Court held that the mere acquittal does not entitle an employee to reinstatement in service, the acquittal, it was held, has to be honourable. The expressions “honourable acquittal”, “acquitted of blame”, “fully exonerated” are unknown to the Code of Criminal Procedure or the Penal Code, which are coined by judicial pronouncements. It is difficult to define precisely what is meant by the expression “honourably acquitted”. When the accused is acquitted after full consideration of prosecution evidence and that the prosecution had miserably failed to prove the charges levelled against the accused, it can possibly be said that the accused was honourably acquitted.”

19. On perusal of the order of punishment it transpires that on the petitioner not appearing as directed on 27.8.2001 for reasons as explained by the petitioner being the illness of his wife, the Conducting Officer once again gave him notice and requested him to appear in the proceedings. On the request of the petitioner, the date in the enquiry proceedings was deferred from 17.8.2002 to 24.8.2002. The petitioner appeared in the



proceedings on 24.8.2002 as also on 21.9.2002, however he did not furnish any defence. On the petitioner's appearance, the Conducting Officer having gone through the materials on record as also his photograph and signature on the application form came to the conclusion that neither the photograph of the petitioner nor his signature matched with that on the application form.

20. Before concluding, it would also be relevant to take note of the fact that the petitioner having been dismissed in the year 2006 as also his appeal having been rejected in the year 2006, he moved by way of a memorial before the D.G.P., Bihar only in the year 2013. The D.G.P., Bihar rightly rejected the memorial on the ground of the same being time barred. The Hon'ble Supreme Court in the case of **Mrinmoy Maity** (*supra*) held as follows :-

"11. For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to



be non-suited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, inasmuch as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court.

12. This Court in Tridip Kumar Dingal and Others v. State of W.B. and Others. [(2009) 1 SCC 768 : (2009) 2 SCC (L&S) 119] has held to the following effect: (SCC p. 784, paras 56-58)

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to



invoke jurisdiction of a writ court, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhumed matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide State of M.P. v. Bhailal Bhai [(1964) 15 STC 450 : 1964 SCC OnLine SC 10 : (1964) 6 SCR 261 : AIR 1964 SC 1006], Moon Mills Ltd. v. Industrial Court [1967 SCC OnLine SC 117 : AIR 1967 SC 1450] and Bhoop Singh v. Union of India [(1992) 3 SCC 136]). This principle applies even in case of an infringement of fundamental right (vide Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110 : (1970) 25 STC 289], Durga Prashad v. Controller of Imports and Exports [(1969) 1 SCC 185] and Rabindranath Bose v. Union of India [(1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will



depend upon what the breach of fundamental right and the remedy claimed are and when and how the delay arose.”

21. Taking into consideration the facts and circumstances of the case, learned counsel for the petitioner not having been able to point out any procedural irregularity and especially the delay of about 7 years in the petitioner preferring his memorial followed by the writ application against the order of dismissal passed by the S.S.P., Patna and the rejection of appeal by the D.I.G., Patna, both in the year 2006, in the opinion of the Court, the petitioner has not made out any case for interference in the orders impugned.

22. In view of the above, the Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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