

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7468 of 2023

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Rajnandan Yadav Son of Dukhi Yadav Resident of Village- Genda Bigha,
P.O.- Dhawal Bigha, P.S. Hulasganj, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The D.I.G. of Police, Champaran Range, Bettiah.
4. The Superintendent of Police, Bagha.
5. The Dy. S.P. Administration, Office of D.I.G. of Police, Champaran Range, Bettiah.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad (Sc 8)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 01-07-2025

Heard learned counsel for the petitioner as well as counsel
for the respondents.

2. This petition has been preferred by the petitioner being aggrieved with the order of dismissal dated 07.01.2021, Annexure – 4, whereby the petitioner has been dismissed from his services also, under challenge is the order dated 30.05.2021 (Annexure – 8) whereby appeal preferred by the petitioner has been rejected.

3. The brief facts of the case is that the petitioner was appointed as a constable on 27.12.1999. On the date of incident i.e. on 31.08.2018 he was posted at Bagha. Allegedly, on 31.08.2018 at about 17:45 hrs the petitioner was found in drunken condition in front of the post office, a FIR has been registered against him as Bagha



(Patkhauli) P.S. Case No. 130/2018 under Section 37(b) of Bihar Excise Prohibition Act, 2016. He was also sent to the judicial custody after lodging of the FIR. Subsequently, a departmental proceeding has also been initiated against him for the same allegation. After conclusion of the enquiry, the enquiry officer in his enquiry report arrived on the conclusion that the charges levelled against the petitioner are duly proved. On the basis of the said enquiry report after issuing the second show cause the disciplinary authority vide impugned order dated 07.01.2021 passed the order of dismissal of the petitioner which has been challenged by the petitioner before the appellate authority, which has also been rejected vide its order dated 30.05.2021 by the appellate authority. Hence, this writ petition.

4. Learned counsel for the petitioner submits that the enquiry officer only on the basis of the medical report of the petitioner arrived on the conclusion that at the relevant point of time the petitioner was found in drunken condition. According to the counsel the doctor who examined the petitioner was not cited as witness nor examined during course of enquiry. The medical report on the basis of which charges have been found proved is also not tendered by any of the witness during course of enquiry. Relying on the judgment passed by this Court in case of ***Mukesh Kumar Singh vs. The State of Bihar & Ors.*** in ***CWJC No. 5125 of 2023***, it is argued by the counsel that only on the basis of medical report it cannot be said that the petitioner was found in drunken condition.



Therefore, all the impugned orders are liable to be set aside.

5. The State counsel opposes the argument raised by the counsel and submits that the presenting officer submitted the medical report, during the course of enquiry and relying upon the medical report of the petitioner, the enquiry officer rightly arrived on the conclusion that the charges levelled against the petitioner are duly proved.

6. Heard both the counsels perused the documents annexed with the petition as well as the counter affidavit and rejoinder.

7. Perusal of the charge memo as well as the enquiry report annexed with the counter affidavit clearly shows that the concerned doctor who examined the petitioner at the time of incident has not been cited as witness nor examined by the department during the course of enquiry. The enquiry officer only on the basis of the medical report of the petitioner arrived on the conclusion that charges levelled against the petitioner has been found duly proved. The medical report of the petitioner dated 31.03.2018 is available at page 45 of the counter affidavit submitted by the respondent-State. Perusal of the medical report of the petitioner clearly shows that no blood test or urine test was conducted by the concerned doctor, even breath analyzer test has also not been conducted and only on the basis of smell doctor arrived on the conclusion that petitioner has taken alcohol. In absence of any of the test as referred herein above, it



cannot be said that the petitioner has taken alcohol. It is a clear case of no evidence.

8. Since, there is no evidence available on record which establishes that at the relevant point of time the petitioner was found in drunken condition or he had consumed liquor therefore, the enquiry report and on the basis of said all the orders impugned are liable to be set aside. Resultly, the petition is allowed, all the order impugned are hereby set aside. The petitioner is entitled to get his reinstatement with all consequential benefit accrued to him. It will be done within three months from the receipt of the copy of the Order of this Court.

9. With the aforesaid observation, this writ petition is disposed of.

(Arvind Singh Chandel , J)

Siddharth Soni/-

AFR/NAFR	NAFR
CAV DATE	NA
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