

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10021 of 2022

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Nupul Kumari Wife of Late Brajesh Kumar, resident of Village - Nawada,
Jaitpur, P.S. - Suraiya, O.P. Jaitpur, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Home Department, Govt. of Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Muzaffarpur Regiona Muzaffarpur.
4. The Deputy Inspector General Champaran Region, Betiah, West Champaran.
5. The Superintendent of Police, Bagaha, West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mahasweta Chatterjee
For the Respondent/s : Mr. Manish Kumar (GP4)

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 27-08-2025

Heard learned counsel for the petitioner and
learned counsel for the respondents-State.

2. This writ petition has been preferred by the
petitioner seeking following relief/reliefs:-

*(i) That an appropriate writ
may be issued quashing the
order vide Memo no. 1460
dated 06.08.2018, as
contained in Annexure-8
whereby and whereunder the
Superintendent of Police the
Respondent no. 5 has*



dismissed the husband of the petitioner from service in a departmental proceeding and also held that the husband of the petitioner is not entitled to any benefit excepting the subsistence allowance during the period of suspensions.

(ii) That an appropriate writ may be issued quashing the order passed by the Respondent no. 4 the Deputy Inspector General Champaran Region Betiah as contained in Annexure-9 whereby and where under the Respondent no.4 has dismissed the appeal filed by the husband of the petitioner.

(iii) That an appropriate writ may be issued quashing the order dated 27.09.2019 as contained in Annexure-11) passed by the Inspector General of Police, Bihar, Patna dismissing the memorial filed by the husband of the petitioner.

(iv) That an appropriate writ may be issued commanding upon the respondent authority to grant the petitioner all consequential benefit like paying the



petitioner fully salary from 06.08.2018 to 23.02.2022 and the benefits payable to the husband of the petitioner including considering to appointment the petitioner on compassionate ground after quashing the orders dated 06.08.2018, 11.12.2018, and 27.09.2019 as contained in Annexure -8, 9 and 11 of the petition.

(v) any other relief/reliefs may be granted for which the petitioner is found entitled to.

3. The fact of the case is that the husband of the petitioner late Brajesh Kumar was appointed as Constable on compassionate ground. On 08.05.2017, he along with others were sent for training to Gaya. On 11.07.2017, when all the trainees including Brajesh Kumar were returning to Bagaha after completion of training by Government vehicle, allegedly he left the vehicle at Muzaffarpur. At that time, he handed over the service pistol to another trainee Pramod Kumar. Subsequently, he did not return on that date. It is further alleged that on 12.07.2017, the said Brajesh Kumar was found in drunken condition in the train. He was found committing misbehaved with one passenger Rakhi Kumari. On the basis of



the complaint made by Rakhi Kumari, the Brajesh Kumar was taken in custody. On his examination, it was found that he was in drunken condition. Rail P.S. Case No. 93 of 2017 dated 13.07.2017 for the offences punishable under Sections 354, 504, 506 of the IPC and 37(B) of the Prohibition of Excise Act has been registered against him. Subsequently, the departmental charge sheet has also been issued to him vide Annexure-2. The enquiry officer submits its enquiry report (Annexure-5) wherein it was found by him that the charges levelled against the petitioner are duly proved. On the basis of said enquiry report, the disciplinary authority passed the order of dismissal vide its order dated 06.08.2018 (Annexure-8). The appeal preferred by the husband of the petitioner Brajesh Kumar has also been rejected vide its order dated 11.12.2018 (Annexure-9) and subsequently, memorial has also been rejected vide Annexure-11. The Brajesh Kumar filed a petition being C.W.J.C. No.17321 of 2019 before this Court. During pendency of the said writ petition, the husband of the petitioner Brajesh Kumar died on 23.02.2022. One Interlocutory Application No. 03 of 2022 was filed in C.W.J.C. No. 17321 of 2019 for substitution of his wife i.e. the petitioner herein. On 21.04.2022, C.W.J.C. No. 17321 of 2019 has been disposed of giving liberty to the



petitioner to file a fresh petition challenging the all orders as mentioned herein above. Hence, this petition has been filed by the wife of the petitioner Brajesh Kumar.

4. The learned counsel for the petitioner submits that along with the charge memo, there were four witnesses cited by the department as departmental witnesses. However, the material witnesses i.e. Rakhi Kumari and the doctor, who conducted the medical examination of the husband of the petitioner, were not cited as witness nor were examined during course of enquiry. It is further submitted by the counsel that as contained in the enquiry report, it appears that the written statement of four witnesses were taken on record by the enquiry officer, however, no opportunity of cross-examination of those witnesses were provided to the delinquent Brajesh Kumar. It is further submitted by the counsel that enquiry report further shows that instead of cross-examination of the departmental witnesses, the presenting officer cross-examined the delinquent employee Brajesh Kumar, which is also not permissible. Therefore, the enquiry report and on the basis of said enquiry report, the order of punishment, which has also been approved by the authorities, are liable to be set aside.

5. Counsel for the respondents-State opposes the



arguments raised by the counsel and submits that ample opportunity of cross-examination of the witnesses has been provided to the petitioner but he did not cross-examine any of the witnesses. Therefore, the enquiry officer rightly arrived at the conclusion that the charges levelled against the petitioner are duly proved.

6. Heard learned counsel appearing for both the parties and perused the documents annexed with the petition as well as counter affidavit submitted on behalf of the respondents-State.

7. Taking into consideration the charges levelled against the husband of the petitioner, the material and important witnesses were the Rakhi Kumari and Doctor, who examined the petitioner on the basis of which it was found that he was found in drunken condition. However, both Rakhi Kumari and the said doctor were not cited as witness nor examined during course of enquiry. In spite of that, the enquiry officer arrived at the conclusion that the charges levelled against the husband of the petitioner are duly proved.

8. Perusal of the enquiry report further shows that though four witnesses were examined by the enquiry officer but opportunity of cross-examination of those witnesses were not



provided to the petitioner. It also appears that the statements of the witnesses were not recorded by the enquiry officer himself rather their written statements were brought on record by the presenting officer and without giving any opportunity of cross-examination of those witnesses, the enquiry officer on the basis of said written statements of the witnesses arrived at the conclusion that the charges levelled against the husband of the petitioner Brajesh Kumar are duly proved.

9. Taking into consideration the above, it is clear that the material witnesses were not examined by the department. Further the witnesses, who were examined by the enquiry officer, have not been cross-examined by the delinquent. Opportunity of cross-examination has also not been given and provided to him. Virtually, it is a case of no evidence. In spite of that, the enquiry officer wrongly arrived at the conclusion that the charges levelled against the delinquent are duly proved. The disciplinary authority and the authority who dismissed the memorial have also not considered these aspects. Therefore, all the impugned orders are liable to be set aside.

10. Resultantly, the writ petition is allowed.

11. Accordingly, the impugned orders dated 06.08.2018 (Annexure-8), 11.12.2018 (Annexure-9) and



27.09.2019 (Annexure-11) are hereby set aside. The petitioner, who is wife of the delinquent, is directed to get all consequential benefits like full salary of the delinquent from 06.08.2018 to 23.02.2022 and other applicable benefits. It will be done by the Respondents within three months from today.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	29.08.2025
Transmission Date	NA

