

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2041 of 2021

Sumintra Devi W/o Late Jagat Prasad @ Late Jagat Yadav Resident of
Village- Bajitpur, Jamuaon, P.S.- Parasbigha, Distt- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Old Secretariat, Bihar, Patna.
2. Deputy Director General of Police (East), Bhagalpur, Bihar.
3. The Senior Superintendent of Police, Bhagalpur, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Adv.
For the Respondent/s : Mr. Manoj Kumar, AC to GP-4

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

9 01-07-2025 Heard the parties.

2. The challenge in the present writ petition is made to an order contained in Letter No. 1133/450293/43-04-110-2019 dated 10.12.2019, issued by the Director General of Police, Bihar, Patna whereby the memorial preferred by the erstwhile employee came to be rejected.

3. Learned Advocate for the petitioner while assailing the impugned order contended that notwithstanding the fact that for the same charges, the erstwhile employee was subjected to departmental as well as judicial proceeding and in the judicial proceeding, the erstwhile employee came to be acquitted by the learned Court of 7th Additional District & Sessions Judge, Bhagalpur in Sessions Trial No. 1094 of 2013 (Trial No. 267 of 2017), the case of the erstwhile employee could not be



considered and the same came to be rejected on the ground of limitation, as the same has been said to be filed after four years.

4. Learned Advocate for the State made a preliminary objection that in absence of any challenge to the original order of dismissal as well as appellate order, no relief could have been granted to the petitioner, moreover, the erstwhile employee came to be dismissed on 31.12.2014, whereas his appeal also came to be rejected on 01.07.2015. It is further contended that the petitioner was acquitted long back in the year 2018 and the present writ petition also came to be filed in the year 2021.

5. Having considered the submissions set forth by learned Advocate for the respective parties, this Court does not find any substance in the submission of learned Advocate for the State and the same stands negated. It is the admitted position that the erstwhile employee, who had been facing judicial proceeding came to be acquitted vide judgment dated 28th of May, 2018.

6. The acquittal, aforementioned, gave a fresh cause of action to the erstwhile employee to move before the higher authorities and accordingly, the erstwhile employee preferred a memorial application before the Director General of Police, Bihar, Patna stating all the facts, including that for the same



charges, he was subjected to departmental as well as judicial proceeding and now in the judicial proceeding, the erstwhile employee came to be acquitted. Hence, in the opinion of this Court, there was no delay in approaching the higher authorities, i.e. the Director General of Police, Bihar, Patna. The submission of the State counsel that the erstwhile employee failed to challenge the original order of dismissal as well as appellate order also does not find merit; in view of the fact that both the orders were questioned before the Director General of Police, Bihar, Patna, in view of the subsequent development taken place on account of acquittal in criminal trial.

7. Before setting aside the impugned order, this Court also thinks it appropriate to refer the decision rendered in the case of *Capt. M Paul Anthony Vs. Bharat Gold Mines Ltd., (1999) 3 SCC 679; G. M. Tank Vs. State of Gujarat & Ors., (2006) 5 SCC 446; Ram Lal Vs. State of Rajasthan & Ors., (2024) 1 SCC 175*, wherein, the Apex Court in no uncertain terms held that if the charges, evidences and the materials are one and the same, in such circumstances, the decision passed by the learned trial Court shall have material bearing over the departmental proceeding.

8. In view of the discussions made hereinabove, this



Court finds substance in the writ petition. Accordingly, the impugned order dated 10.12.2019 passed by the Director General of Police, Bihar, Patna stands set-aside.

9. The petitioner is at liberty to file a fresh memorial/review petition along with the order of this Court. In case such a memorial/review petition is filed preferably within a period of six weeks, from today, the respondent Director General of Police, Bihar, Patna shall consider the same and dispose off in accordance with law in the light of the decisions noted hereinabove, preferably within a further period of eight weeks, thereafter.

10. With the aforesaid observation and direction, the writ petition stands allowed.

(Harish Kumar, J)

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