

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10415 of 2023

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Jayram Pal Son of Late Nand Kishore Pal, Resident of Vill-Guthani, P.S-Guthani, District-Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar Through its Principal Secretary Home Bihar at Patna.
2. The Director General of Police Bihar.
3. The Deputy Inspector General of Police Railway Bihar.
4. The Superintendent of Police Katihar, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Diwakar Prasad Singh Mr. Kundan Rathore @ Kundan Kumar Mr. Tripurari Pal Mr. Amaldeep Lokpriya Mr. Om Prakash Singh
For the Respondent/s	:	Mr. Sheo Shankar Prasad (SC8) Mr. Sanjay Kumar

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 01-07-2025

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

2.This petition has been preferred by the petitioner
being aggrieved with the order dated 16.08.2019 (Annexure-4)
whereby and whereunder the services of the petitioner has been
terminated and also challenged the order dated 05.03.2020 and



14.11.2022, Annexure nos. 6 and 8 respectively whereby and whereunder the appeal and memorial preferred by the petitioner has also been rejected.

3. The brief facts of the case is that on 07.12.2018 mobile phone of the petitioner got misplaced, therefore he lodged a formal complaint at Railway police station vide Annexure-2. On 12.12.2018, the petitioner was on escort duty and during his duty he felt ill seriously, therefore he was treated by the doctor and advised to take complete bed rest for the period of 20 days. Subsequently, on 13.12.2018 one Shrikant Kumar Sah lodged an FIR against the petitioner mentioning the name of the petitioner as Dhiraj Pal, on the basis of the said FIR under Sections 377, 511 of the Indian Penal Code and Section 9(b) of the POCSO Act have been registered in the Police Station at Katihar as Rail Kisanganj P.S. Case No. 36 of 2018.

4. On the basis of the said FIR, the departmental enquiry was also initiated against the petitioner and the charge-sheet (Annexure-P/4) has been issued to the petitioner with list of documents and list of witnesses. The enquiry officer on its enquiry report dated 27.09.2019 arrived at the conclusion that all the charges levelled against the petitioner are proved. On the basis of the said enquiry report, the disciplinary authority passed



the order of dismissal which has been also affirmed by the higher authority by deciding appeal as well as memorial preferred by the petitioner and hence, this petition.

5. Learned counsel for the petitioner would submit that the material witness that is complainant Shrikant Kumar Sah as well as eye witness of the said incident namely Vishwajeet Kumar Yadav were not made witness during course of enquiry nor examined by the enquiry officer. In spite of that only on the basis of statement of formal witnesses i.e. police officials, the enquiry officer arrived at the conclusion that the charges levelled against the petitioner are found true. Learned counsel further submits that after full-fledged trial, vide judgment dated 21.09.2022 (Annexure-9), petitioner has been acquitted from all the charges levelled against him. He further submits that this fact has been brought into the knowledge to the authority by submission of memorial but authority did not consider this aspect of the matter. Since in the departmental enquiry, there is no legal evidence available against the petitioner, the finding as arrived by the enquiry officer is not in accordance with evidence available on record. Therefore, on the basis of said enquiry report, all the orders impugned are liable to be set aside.



6. The learned State counsel opposes the argument raised by the counsel for the petitioner.

7. Heard and perused the documents annexed with the petitioner as well as counter affidavit.

8. Perusal of the first information report (Annexure-3), it appears that the said FIR has been lodged by Srikant Kumar Sah aged about 14 years wherein it is alleged by him that one person namely Dhiraj Pal from his mobile no. 7362077966 called on his mobile no. 6204742996 and used obscene words. It is further stated that on 04.04.2018 and subsequently on 13.12.2018 again the said Dhiraj Pal abused him. It is further alleged that the said Dheeraj Pal also tried to commit unnatural sex with one Vishwajeet Kumar Yadav.

9. Looking to the above averments made in the first information report, both Shrikant Kumar Sah and Vishwajit Kumar Yadav were the material witnesses for establishing that the allegation levelled against the petitioner in departmental enquiry. However, for the best reason known to them the department neither made them witness nor examined them during enquiry. There is also no evidence available on record which shows that any test identification parade of the present applicant/petitioner has been ever conducted during police



investigation. Since the first information report was against the named accused Dheeraj Pal and the name of the present petitioner is Jayram Pal, therefore test identification parade was also required. There is also no material available on record which established that as alleged in the first information report such type of talk has never been happened earlier in between them. Virtually, it is a case of no evidence. Since the material witnesses were not examined by the department, it is also pertinent to mention here that subsequently, both the Shrikant Sah as well as Vishwajit Kumar Yadav during course of trial were turned hostile and not supported the case of prosecution and on this basis, the petitioner has been acquitted from all the charges.

10. For the reasons, as discussed above, I find that the finding, as recorded by the enquiry officer in his enquiry report, is not in accordance with evidence available on record, therefore, on the basis of such finding, the orders impugned are liable to be set aside.

11. Accordingly, this writ petition is allowed. Both the orders impugned are hereby set aside.

12. The concerned respondent is directed to reinstate the services of the petitioner with all consequential



benefits probably within three months from the date of receipt/production of a copy of this order.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.07.2025
Transmission Date	NA

