

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10422 of 2023

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Avinash Kumar Son of Akshay Paswan, Resident of village- Khargiha, P.O. Chhotaki Chenari, P.S. Sheosagar, District - Rohtas.

... .. 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, Tirhut Range, Muzaffarpur.
4. The Superintendent of Police, Muzaffarpur.
5. Central Selection Board Through its Chairman, Constable Selection, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Hriday Prasad
For the State	:	Mr. Ajay Kumar AC to GP-4
For C.S.B.C.	:	Mr. Sanjay Pandey Mr. Binod Kumar Mishra Mr. Vivek Anand Amritesh

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL JUDGMENT

Date : 17-06-2025

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

2. This petition has been preferred by the petitioner challenging the order dated 02.06.2020, Annexure-12, whereby and whereunder the competent authority passed the order of dismissal and also challenging order dated 21.12.2022



Annexure-14, whereby the appellate authority rejected the appeal preferred by the petitioner.

3. The brief facts of the case is that Advertisement no. 01 of 2014 was published for selection and appointment of the post of Constable by the Central Selection Board (Constable Recruitment), Bihar. Petitioner applied for the same and appeared in the written and physical efficiency test and succeeded. On 23.06.2015 selection letter was sent to the petitioner vide Annexure-1 and he was directed to join Muzaffarpur District. The petitioner joined his services on 06.07.2015. Subsequently, an FIR was lodged against the petitioner and other persons as Ahiyapur P.S. Case No. 941 of 2015 for the offences punishable under Sections 419, 420, 467, 468, 471 and 120(B) of the Indian Penal Code. It is alleged that at the time of written test, the petitioner himself did not appear, in his place any other person appeared and thereby the petitioner committed fraud. The petitioner was taken in custody on 12.10.2015 and on 21.12.20215 he was granted regular bail. Subsequently, vide order dated 15.09.2018, Annexure-5, petitioner was terminated from the services. Thereafter, the petitioner filed C.W.J.C. No. 21178 of 2018 against the order of termination, which was disposed of on 16.08.2019 vide



Anneuxre-6. Accordingly, the petitioner was reinstated. Subsequently, a departmental proceeding was initiated against him, charges were framed on 05.03.2020 and on the basis of the enquiry report submitted by the enquiry officer, the services of the petitioner has been terminated vide impugned order dated 02.06.2020, Annexure-12. The said order has been assailed by the petitioner before this Court being C.W.J.C. No. 11288 of 2021, which was also disposed of on 22.09.2022 with direction to file an appeal before the appellate authority. The petitioner filed an appeal on 01.10.2022, which was also rejected by the appellate authority vide order dated 21.12.2022, Annexure-15 and hence, this writ petition.

4. It is submitted by the learned counsel for the petitioner that during conducting departmental enquiry, three witnesses were examined, they were only formal witnesses. The material witnesses i.e. the officer who conducted the preliminary enquiry on the basis of which FIR has been lodged against the petitioner has not been cited nor examined by the department. The other material witness, Dinesh Paswan against whom the FIR has also been lodged, has not been examined nor cited as witness. Learned counsel further submits that without obtaining an opinion from the handwriting expert and without



examining such type of any handwriting expert, the enquiry officer wrongly arrived at the conclusion that the signature and handwriting of the petitioner is different from the signature and handwriting on the examination paper. He further submits that the enquiry officer also arrived at the conclusion that petitioner has made his confession that such act has been done by him but proving this fact also none of the witnesses has been examined before the enquiry officer nor the above confessional statement as made by the petitioner has been tendered by any of the witness. The finding as recorded by the enquiry officer is not in accordance with the evidence available on record rather without any evidence he recorded the finding of guilt, which has not been considered by the disciplinary authority nor by the appellate authority while deciding the appeal. Therefore, it is prayed by the counsel that on these grounds both the orders impugned are liable to be set aside.

5. Learned State counsel opposes the argument raised by the counsel for the petitioner and submits that taking into consideration the material available on record, the enquiry officer has rightly arrived at the conclusion that charges as levelled against the petitioner has been proved, therefore on the basis of which the disciplinary authority has rightly passed the



order of dismissal which has also been rightly affirmed by the appellate authority.

6. Heard learned counsel for the parties and perused the records annexed with the petition as well as the counter affidavit filed by the respondents-State and rejoinder submitted by the petitioner.

7. Perusal of the statements of the witnesses, who were examined during the departmental enquiry which is available in the writ petition (Annexure-9 series) clearly shows that all these witnesses are the formal witnesses. The material witness i.e. Dinesh Paswan, the scholar has not been cited nor examined by the department to establish the fact that he appeared in the examination in place of the petitioner. Further the person who arrived at the conclusion that the signature and handwriting of the petitioner were different is also not examined by the department nor cited as witness. The charge memo also shows that it is alleged that petitioner himself admitted his guilt during preliminary enquiry but the above admission/confession made by the petitioner is also not produced nor tendered by any of the witnesses during course of enquiry. The enquiry report further shows that at the time of preliminary enquiry, some questions were put before the petitioner by the person who



conducted the preliminary enquiry and it was found by him that answer given by the petitioner was also found below the standard which has also not been examined during the departmental proceeding. Thus, all the material witnesses as discussed above were not examined during the course of enquiry rather the formal witnesses were examined by the department. Only on the basis of those statements, the enquiry officer arrived at the conclusion that the petitioner has committed fraud as alleged against him. The above finding recorded by the enquiry officer is not in accordance with evidence available on record, rather it is a case of no evidence, even after that the disciplinary authority has passed the order of dismissal, which has also been wrongly affirmed by the appellate authority while deciding the appeal preferred by the petitioner. Thus, on the grounds, as discussed above, both the impugned orders dated 02.06.2020 (Annexure-12) and 21.12.2022 (Annexure-14) are liable to be set aside.

8. Accordingly, the impugned orders dated 02.06.2020 (Annexure-12) and 21.12.2022 (Annexure-14) are set aside.

9. The writ petition is allowed.

10. However, the respondents-State is directed to



reinstate the services of the petitioner forthwith with all consequential benefits accrued to him. The necessary order be passed within 45 days from the date of receipt/production of a copy of this order.

(Arvind Singh Chandel , J)

shailendra/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	19.06.2025
Transmission Date	NA

