

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case no.14489 of 2017

- 1.1. Mani Devi Wife of Late Bijay Kumar Singh, Resident of Village - Purani Bazar Kharia, P.S. Kurshela, District Katihar.
- 1.2. Santosh Kumar Singh Son of late Bijay Kumar Singh, Resident of Village - Purani Bazar Kharia, P.S. Kurshela, District Katihar.
- 1.3. Amit Kumar Singh Son of late Bijay Kumar Singh, Resident of Village - Purani Bazar Kharia, P.S. Kurshela, District Katihar.
- 1.4. Sumit Kumar Singh Son of late Bijay Kumar Singh, Resident of Village - Purani Bazar Kharia, P.S. Kurshela, District Katihar.
- 1.5. Juli Kumari D/o Late Bijay Kumar Singh, Wife of Rajesh Singh, Resident of Village Anandpur, Ward no. 26, P.O. and P.S. Anandpur, District- Begusarai.
- 1.6. Kumari Jyoti Rani D/o Late Bijay Kumar Singh, Wife of Rupesh Kumar Singh, Resident of Village - Ramaili, P.O. and P.S. Khudna Rupaspur, District- Katihar.
- 1.7. Priti Kumari D/o Late Bijay Kumar Singh, Wife of Abhishek Raj Ujjwal, Residing at Koshy Colony, P.S. Kursela, District- Katihar.
- 1.8. Shruti Singh D/o Late Bijay Kumar Singh, Wife of Gaurav Kumar Singh, Resident of Village - Balchi Maheshpur, P.S. Kurshela, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Patna
3. The Deputy Inspector general of Police East Zone, Bhagalpur
4. The Senoir Superintendent of Police Bhagalpur
5. The Superintending of Police Bhagalpur
6. The Superintending of Police, Begusarai
7. The Conducting Officer Being Inspector of Police, Sadar Circle, Bhagalpur
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rana Ishwar Chandra, Advocate
		Mr. Ramesh Kumar Singh, Advocate
For the Respondent/s	:	Mr. Sheo Shankar Prasad, SC 8

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 18-11-2025

1. Heard learned counsel for the petitioner and



learned counsel for the respondents.

2. The original petitioner filed the instant application for the following reliefs:

“(i) For quashing of the impugned order (Anneuxre-13) in part as contained in Memo no. 3688/L-1 dated 22.08.2012, passed by Director General of Police, Bihar, Patna (Respondent no.-2), to the extent, whereby and where under, the salary of petitioner for the period, since January 2011 to September, 2012 has been withheld and two increments of pay scale has also been withheld.

(ii) For commanding and directing the relevant respondent(s) to extend all the subsequently benefits to the petitioner arising out of such part quashing of the impugned order.

(iii) For grant of such other relief(s) for which the petitioner may be found entitled in the facts and circumstances of this case.”

3. The case of the petitioner, in brief, is that he was appointed as a Constable in the Katihar District Police Force in the year 1974. A departmental proceeding was initiated against him on 18.7.2006 for the reason that four accused persons, who had been remanded to judicial custody and were being escorted by the petitioner from the



Court to jail, escaped. The departmental proceeding ended in an order of dismissal from service being passed against the petitioner by the Senior Superintendent of Police, Bhagalpur on 28.12.2010.

4. The appeal preferred by the petitioner was rejected and finally after the direction of the High Court in CWJC no. 1855 of 2012 the memorial filed by the petitioner was decided by the Director General of Police, Bihar, who by his order dated 22.8.2012, was pleased to modify the order of dismissal passed against the petitioner. The petitioner was taken back in service and order of punishment imposing two black marks was passed against him.

5. Learned counsel for the petitioner submitted that once the order of punishment of dismissal from service had been modified by the DGP taking into consideration various mitigating factors including that six accused had to be escorted by the petitioner alone which was a difficult work and that it had not been proved that the escape of the accused was facilitated by the petitioner for his personal gains, on modification of the order of punishment from



dismissal to imposition of two black marks, the petitioner should be paid his arrears of salary for the period that he was illegally restrained from working.

6. The application was opposed by learned counsel for the respondents. It was submitted that the petitioner had been proceeded against in a departmental proceeding for a very serious charge according to which four convicts who were being escorted by the petitioner from Court to jail, escaped. It was submitted that under Article 226 of the Constitution, the scope of interference in an order of punishment passed in a departmental proceeding was very limited, the scope being only to see as to whether there was any procedural fault. The petitioner not having been able to point out any procedural fault, he had rightly been denied arrears of salary for the period of his dismissal from 28.12.2010 to 22.8.2012 on the principles of 'no work, no pay'.

7. Heard learned counsel for the parties and perused the material on record.

8. The relevant facts in brief are that the petitioner,



who was a Constable in the Bihar Police posted in the district of Bhagalpur was proceeded against in a departmental proceeding in year 2006, the proceeding ending in an order of punishment dated 28.12.2010 of dismissal from service being passed against the petitioner by the Senior Superintendent of Police, Bhagalpur. The appeal preferred by the petitioner was rejected by order dated 9.7.2011 passed by the Deputy Inspector General, East Zone, Bhagalpur.

9. The petitioner preferred a memorial before the DGP, however not having received any response to the same, filed CWJC no. 1855 of 2012 in the Patna High Court Court which was disposed of by order dated 27.2.2012 directing the DGP to dispose of the memorial filed by the petitioner by a reasoned and speaking order within the time fixed. The memorial filed by the petitioner was rejected by the order impugned dated 22.08.2012 passed by the DGP.

10. The order of punishment of dismissal from service was modified to the punishment of imposition of two black marks. It was further held that on the principles of 'no



work, no pay,' the petitioner will not be entitled for any salary/ allowance for the period of his dismissal, however, the petitioner will be treated to have been on extraordinary leave for the said period.

11. The petitioner was dismissed from service by order dated 28.12.2010 passed by the Senior Superintendent of Police, Bhagalpur. Subsequently by order dated 22.8.2012 of the DGP, Bihar the order of dismissal was modified, the petitioner was taken back in service and the order of punishment was changed to imposition of two black marks. Once the respondent authorities themselves, for good reasons found the order the punishment of dismissal to be not sustainable in view of the reasons spelt out in the order dated 22.8.2012 of the DGP, Bihar, in the opinion of the Court, the petitioner could not have been denied the arrears of salary for the period of dismissal on the principles of 'no work, no pay'.

12. In the case of **Deepali Gundu Surwase v. Kranti Junior Adyapak Mahavidyalaya; (2013) 10 SCC 324**, the Hon'ble Supreme Court held as follows:



“22. The very idea of restoring an employee to the position which he held before dismissal or removal or termination of service implies that the employee will be put in the same position in which he would have been but for the illegal action taken by the employer. The injury suffered by a person, who is dismissed or removed or is otherwise terminated from service cannot easily be measured in terms of money. With the passing of an order which has the effect of severing the employer-employee relationship, the latter's source of income gets dried up. Not only the employee concerned, but his entire family suffers grave adversities. They are deprived of the source of sustenance. The children are deprived of nutritious food and all opportunities of education and advancement in life. At times, the family has to borrow from the relatives and other acquaintance to avoid starvation. These sufferings continue till the competent adjudicatory forum decides on the legality of the action taken by the employer. The reinstatement of such an employee, which is preceded by a finding of the competent judicial/quasi-judicial body or court that the action taken by the employer is ultra vires the relevant statutory provisions or the principles of natural justice, entitles the employee to claim full back wages. If the employer wants to deny back wages to the employee or contest his entitlement to get



consequential benefits, then it is for him/her to specifically plead and prove that during the intervening period the employee was gainfully employed and was getting the same emoluments. The denial of back wages to an employee, who has suffered due to an illegal act of the employer would amount to indirectly punishing the employee concerned and rewarding the employer by relieving him of the obligation to pay back wages including the emoluments.”

13. Having heard learned counsel for the parties and having perused the contents of the petition together with materials on record, in view of the facts of the case and the judgment of the Hon'ble Supreme Court in the case **Deepali Gundu Surwase** (supra), this Court partly sets aside the order dated 22.8.2012 passed by the DGP, Bihar, to the extent that it held the petitioner not entitled for any salary/allowance for the period of his dismissal.

14. The petitioner is held entitled for the arrears of salary and allowances for the period from the date of his dismissal ie 28.12.2010 to the date of his reinstatement ie 22.8.2012. The arrears shall be paid to the petitioner by the respondents within a period of three months from the date



of receipt/production of a copy of this order.

15. The writ application stands allowed.

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	30.10.2025
Uploading Date	18.11.2025
Transmission Date	

