

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21976 of 2012

Manoj Kumar @ Manoj Kumar Singh, Son of Late Bindeshwari Singh of
Village Masadh, P.S. Udwantnagar, District Bhojpur At Ara

... .. Petitioner

Versus

1. The State Of Bihar,
2. The Director General Of Police, Bihar, Patna
3. Inspector General Of Police, Magadh Range, Gaya
4. The Superintendent Of Police, Nawada
5. The Superintendent Of Police Rail, Muzaffarpur
6. The Dy. Superintendent Of Police, Nawada

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Rama Kant Sharma, Sr. Advocate Mr. Rakesh Kumar Sharma, Advocate Mr.Rabindra Kumar, Advocate
For the Respondent/s	:	Mr.Vivek Prasad, G.P.2 Mr. Sudhanshu Bhushan, AC to GP2

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 27-06-2025

In the instant petition, petitioner has prayed for the
following relief:

*1. That the writ petitioner is invoking
the writ jurisdiction of this Hon'ble Court for
issuance of appropriate writ/writs, order/orders,
direction/directions in the nature of certiorari for
quashing the order contained in Memo No. 2075
dated 20.08.2010 issued under the signature of
respondent Superintendent of Police, Nawada,
whereby and whereunder in pursuance of
departmental proceeding No.05/04 petitioner a
Constable being No. 889 has been terminated from*



service and decision was taken that he is not entitled for any remuneration during the period of suspension. Further for quashing the order contained in Memo No. 4792 dated 25.12.2010 passed by the Inspector General of Police, Magadh Range, Gaya dismissing the appeal preferred by the petitioner. Also for quashing the order contained in Memo No. 743 dated 29.02.2012 dismissing the memorial preferred by the petitioner against the order dated 25.12.2010. Petitioner further seeks Hon'ble Court's indulgence commanding the respondent authority to reinstate the petitioner in view of the categorical finding of the criminal court regarding same issue and acquitted the petitioner from all charges on the strength of finding that neither any cartridges was recovered in course of investigation nor any ballistic report shows that rifle of the petitioner was used for resorting any firing, although some altercation took place between the petitioner and one Krishna Kumar also a constable regarding some trivial matters and in that view of the matter since a competent court has acquitted the petitioner from charges by judicial pronouncement then it might be unjust, unfair and rather oppressive to punish this petitioner with a severe punishment of dismissal relying the certain part of investigation and petitioner is fit to be reinstated in service with full back wages.

Petitioner further seeks for any other



consequential relief/reliefs for which petitioner is found entitled in the eye of law and in the facts and circumstances of the present case.”

2. Brief facts of the case are that the petitioner, while working as a Constable in the Nawada town, he was involved for the offences under Section 307 of I.P.C. read with Section 27 of the Arms Act in Nawada Town P.S. Case No. 27 of 2002 on 21.02.2002. Arising out of the alleged allegations of offence, he was subjected to parallel proceedings namely criminal and disciplinary proceedings. He was placed under suspension on 04.05.2002. Thereafter, departmental inquiry was initiated by framing charges on 29.05.2003. Inquiry Officer submitted report on 22.08.2008. The disciplinary authority was not satisfied with the Inquiry Officer's Report and remanded the matter to the Inquiry Officer to commence inquiry from the defective stage. Resultantly, Inquiry Officer submitted further report on 06.07.2009. The disciplinary authority proceeded to issue second show cause notice on 12.11.2009 and proceeded to impose the penalty of dismissal from service on 20.08.2010. The petitioner has exhausted the remedy of appeal before the Appellate Authority as well as memorial in which he had suffered orders on 25.12.2010 and 29.02.2012, respectively.



3. Learned counsel for the petitioner submitted that no witnesses have been examined despite four witnesses have been cited in support the alleged charge in the Charge Memo dated 29.03.2003. It is further submitted that in the criminal proceeding, he has been acquitted on 16.05.2006, the same has not been taken note of.

4. *Per contra*, learned counsel for the Respondent despite providing ample opportunity could not apprise this Court with reference to relevant disciplinary proceeding record as to Presenting Officer was appointed or not. Witnesses have been examined and permitted to cross-examine on behalf of petitioner or not? He could not apprise with reference to Inquiry Officer's day to day proceedings to the extent that Presenting Officer presented the case on behalf of the Department before the Inquiry officer. Further examination of witnesses on behalf of Presenting Officer and so also permitting the petitioner to cross-examine the witnesses. These are all the legal lacuna, which are required to be strictly adhered to in a disciplinary proceeding. On this score, the petitioner has made out a case so as to interfere with the impugned orders dated 20.08.2010, 25.12.2010 and 29.02.2012 are set aside.

5. The concerned Respondent is hereby directed to



reinstate the petitioner within a period of one month from the date of receipt of this order. Further, it is made clear that petitioner is not entitled to full back wages from the date of dismissal till reinstate. However, he is entitled to 50% back wages, the same shall be calculated and disbursed in favour of the petitioner within a period of six weeks from the date of receipt of this order.

6. With the above observation, the present C.W.J.C. No. 21976 of 2012 stands allowed.

(P. B. Bajanthri, J)

manish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.07.2025
Transmission Date	N.A

