

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1156 of 2023

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Ajay Kumar Ranjan Son of Sukhdeo Mahto, Resident of Surkhikal Tilka Manjhi, Near kali Mandir, Bhagalpur, P.S.-Bhagalpur Town, Dist -Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police, Bihar, Bailly Road, Patna.
3. The DIG, Saran range, Chapra
4. The S.P., Siwan

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.

For the Respondent/s: Mr. Md. Nadim Seraj, G.P.-5

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL

ORAL ORDER

3 11-02-2025 Heard learned counsel for the petitioner and

learned counsel for the respondents-State.

2. This petition has been preferred by the

petitioner seeking following reliefs;

(I) Issuance of a writ in the nature of writ of certiorari to quash/ set aside the extreme punitive order passed by the Respondent No. 2 in exercise of power conferred under rule 853-A of the Bihar Police Manual, whereby and whereunder the Director General of Police, Bihar, has suo motu reviewed the earlier order of the S.P., Siwan, dated 09.08.2017 in District Department Proceeding no. 05/2016 by which the S.P., Siwan, had inflicted the punishment of 02 censures and the Respondent No.2 has instead now after setting it aside has directed the petitioner to be reverted back to the basic grade constable for 03 years, and that to without a show cause in a most arbitrary and whimsical manner as contained in Annexure-10 to this writ application.

(ii) Issuance of a writ of mandamus commanding the Respondents to restore status



quo ante with respect to the petitioner prior to the order dated 16.08.2022 vide memo no. 1059 of the Respondent no.2 and restore the petitioner to the post of Assistant Sub-Inspector of police along with all monetary benefits.

(iii) Issuance of a writ further in the nature of writ of certiorari to set aside the order of the S.P. -cum- Disciplinary Authority dated 09.08.2017 by which Respondent No.4 in Departmental proceeding no. 05/16 had punished the petitioner by 02 censures in the Departmental proceeding which by no stretch of imagination can be termed as Departmental proceeding.

(iv) Issuance of any other writ/ writs, order/orders: direction/directions to grant relief/reliefs to which the petitioner may be found entitled to in the facts and circumstances of the case.

3. The brief facts of the case is that in the year 2016, while the petitioner was posted as a Reader in the office of Deputy Superintendent of Police, Maharajganj on the basis of certain allegations made against him, his services have been suspended vide order dated 08.01.2016. Thereupon memo of charge was also framed against him. After conclusion of departmental inquiry, on the basis of inquiry report, the Superintendent of Police, Siwan passed the order of punishment vide order dated 09.08.2017 i.e. Annexure-8, whereby the petitioner has been awarded punishment of two "censures". The petitioner has not preferred any appeal against the order of punishment.



However, invoking the power under Rule 853A of Police Manual vide its order dated 16.01.2022, Annexure-P/10, the Director General of Police, Government of Bihar reviewed the order of the disciplinary authority i.e. Superintendent of Police, Siwan and canceled the promotion granted to the petitioner on the post of Assistant Sub Inspector. Hence, the petitioner has preferred this petition.

4. Learned counsel for the petitioner submits that the punishment order of two censures by the disciplinary authority was passed on 09.08.2017 and the Director General, Government of Bihar has passed the final order after elapse of five years i.e. on 16.08.2022. He further submits that the matter has already been settled by a co-ordinate Bench of this Court in the case of ***Surendra Kumar Vs. The State of Bihar and Anjani Kumar Singh Vs. State of Bihar*** reported in ***2001(1) PLJR 177*** wherein the term 'reasonable time' has been explained to hold that a revisional proceeding initiated after three years is not reasonable. It was further held that such exercise beyond three years is not within reasonable time. In the present case also, the revisional proceeding was started after elapse of five years of passing of the punishment order and final order



has been passed after near about five years of passing of punishment order. Therefore, on this ground only, the order passed by the Director General of Police, Government of Bihar, (Annexure-10) is liable to set aside.

5. On the other hand, learned counsel for the respondents-State opposed the argument advanced by the learned counsel for the petitioner and submits that in the cases referred by the learned counsel for the petitioner, the petitioners therein were the persons who were terminated from their services but here, in this case, the petitioner has been awarded punishment of only two censures, therefore, his case is not identical to the matters as referred above by the learned counsel for the petitioner.

6. I have heard learned counsel for both the sides and perused both the orders of punishment and revisional order.

7. Perusal of the revisional order reveals that after elapse of five years, the impugned order has been passed by the Director General of Police, Government of Bihar. Perusal of para-5 of the said order (Annexure-10), it also reveals that for reviewing the matter of the petitioner, show cause was called vide a communication dated 26.04.2021 i.e. after



elapse of three years of the order of punishment.

8. Although, under Rule 853A of the Bihar Police Manual, the Director General of Police is empowered to review the order of punishment imposed by the Superintendent of Police but it has to be invoked within a reasonable time. The term 'reasonable time' has already been dealt with and explained in the cases of Anjani Kumar Singh(supra) and Surendra Kumar (supra) wherein it has been categorically held that the revisional proceeding initiated after three years is not resonable and such exercise beyond three years is not within the resonable time.

9. In such view of the matter, since the matter has already been settled, therefore, in light of judgment passed by a co-oridnate Bench of this Court, as referred herein-above, the impugned order i.e. order dated 16.08.2022 (Annexure-10) is liable to be set aside. Accordingly, the order dated 16.08.2022 passed by the Director General of Police, Government of Bihar is quashed and the petition stands allowed.

(Arvind Singh Chandel , J)

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