

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.457 of 2023
In
Civil Writ Jurisdiction Case No.1746 of 2022

Rambachan Chaudhary, aged about 37 years, Gender-Male, Son of Mantu Chaudhary, resident of Village- Rampur, Ward No. 03, P.S.- Sonhan, District-Kaimur (Bhabua).

... .. Appellant

Versus

1. The State of Bihar through the Home Commissioner, Bihar.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Koshi Region, Saharsa, Bihar.
4. The Deputy Inspector General of Police, Koshi Region, Saharsa, Bihar.
5. The Superintendent of Police, Supaul, Bihar.
6. The Deputy Superintendent of Police, Supaul, Bihar
7. The Enquiry Officer-Cum- Sub Divisional Police Officer, Birpur, Supaul, Bihar.
8. The S.H.O. Trieveniganj Police Station, Supaul, Bihar.

... .. Respondents

Appearance:

For the Appellant : Mr. Shyam Bihari Singh, Advocate
For the Respondents : Dr. Mankeshwar Tiwari, A.C. to A.A.G.-3

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

4 30-03-2026 Upon perusal of the previous orders, it appears that in the order dated 04.09.2025, “order no. 3” has wrongly been recorded in place of “order no. 2”. Similarly, in the order dated 09.10.2025, “order no. 4” has been wrongly recorded in place of “order no. 3”.

2. The aforesaid errors being clerical/typographical in



nature, require correction. Accordingly, it is directed that in the order dated 04.09.2025, “order no. 2” shall be read in place of “order no. 3”, and in the order dated 09.10.2025, “order no. 3” shall be read in place of “order no. 4”.

3. The orders dated 04.09.2025 and 09.10.2025 is modified to the limited extent indicated hereinabove.

Re.: I.A. No. 01 of 2023:

4. The aforesaid Interlocutory Application has been filed on behalf of the appellant for condoning the delay in filing the present Letters Patent Appeal i.e., L.P.A. No. 457 of 2023.

5. For the reasons mentioned in the present Interlocutory Application, delay in filing the present Letters Patent Appeal i.e., L.P.A. No. 457 of 2023, is condoned and I.A. No. 01 of 2023 is allowed.

Re.: L.P.A. No. 457 of 2023:

6. Heard learned counsel for the appellant and learned counsel for the respondents.

7. The present *intra* court appeal has been preferred under Clause 10 of Letters Patent of Patna High Court Rules, against the judgment and order dated 02.12.2022 passed by the learned Single Judge in C.W.J.C. No. 1746 of 2022, whereby the writ application preferred by the appellant came to be dismissed.



8. The brief facts of the present case are that the appellant, a police personnel posted in Supaul district, was alleged to have been found in an intoxicated condition. A breath analyser test of the appellant was conducted which indicated presence of alcohol, pursuant to which, Triveniganj P.S. Case No. 236 of 2019 was instituted against him. Further departmental proceedings were also initiated against the petitioner *vide* Supaul Ziladesh No. 488/2020, in which he was awarded a major punishment.

9. At the outset, it is pertinent to note that the present matter represents the second round of litigation at the instance of the appellant. In the first round, the appellant had approached this Court in C.W.J.C. No. 5578 of 2021, which was disposed of by order dated 25.03.2021. The following observation was made by the learned Writ Court:

“Without expressing any opinion on the merits of the aforesaid claim of the petitioner, the present writ application is disposed off with a direction to the respondents to scrutinize the fact and if it is found that the fact of this case is similar to that of C.W.J.C. No. 13549 of 2018 (Jawahar Kumar Singh Versus State of Bihar & Ors), same treatment shall be extended to the petitioner by the respondents within a maximum period of two



months from the date of receipt/production of a copy of this order.”

10. Thus, the matter was remitted to the competent authority for a limited purpose, namely, to examine whether the case of the appellant was similar to that of **Jawahar Kumar Singh v. State of Bihar & Ors (C.W.J.C. No. 13549 of 2018)** and to extend similar treatment only if such similarity existed.

11. In compliance thereof, the competent authority reconsidered the matter and passed a reasoned order dated 20.06.2021 (Annexure-12 to the writ petition). The authority, upon a comparative assessment of the facts, recorded the following findings:

”Civil Writ Jurisdiction Case no. 13549/2018 जवाहर कुमार सिंह बनाम राज्य सरकार एवं अन्य तथा Civil Writ Jurisdiction Case no. 5578/2021 रामबचन चौधरी बनाम बिहार सरकार एवं अन्य में माननीय उच्च न्यायालय द्वारा पारित आदेश का अवलोकन किया गया। अवलोकनोपरांत दोनों मामला एक जैसा नहीं है। जो भिन्ता तुलनात्मक प्रकाश में आया है, वे निम्न हैं:-

- 1. बर्खास्त सिपाही- 537 रामबचन चौधरी कर्तव्यहीन एवं अच्छे पुलिस कर्मी नहीं है।*
- 2. ये त्रिवेणीगंज थाना कांड सं०- 236/ 19 के प्राथमिकी नामजद अभियुक्त है। इनके विरुद्ध यह कांड ब्रेथ एनालाईजर रिपोर्ट एवं चिकित्सीय रिपोर्ट के अवलोकनोपरांत धारा- 37(बी) बिहार मद्य निषेध एवं उत्पाद अधिनियम 2016 के अंतर्गत सत्य पाया गया है। इस कांड में अनुसंधानोपरांत आरोप पत्र सं०- 391/ 19, दिनांक- 20. 10. 19 समर्पित किया गया है। जो माननीय न्यायालय में विचाराधीन है।*
- 3. ये सुपौल थाना के गार्ड में प्रतिनियुक्त थे, जबकि*



घटनास्थल सुपौल थाना से लगभग 30 कि०मी० त्रिवेणीगंज थाना क्षेत्र है। स्पष्ट है कि ऐसा कृत्य एक अनुशासनहीन पुलिस कर्मी ही करेगा। घटनास्थल तक जाने के लिए अपचारी द्वारा किसी तरह का अनुमति नहीं लिया गया था।

4. मद्य निषेध अधिनियम- 2016 का अनुपालन करना प्रत्येक पुलिस कर्मी का दायित्व है। प्रत्येक पुलिस कर्मी ने इसके लिए शपथ भी लिया है। इस प्रकार न केवल अपचारी ने कानून का उलंघन किया है बल्कि शपथ एवं कर्तव्य का भी उलंघन किया है।

Civil Writ Jurisdiction Case no. 13549/2018 जवाहर कुमार सिंह बनाम राज्य सरकार एवं अन्य तथा Civil Writ Jurisdiction Case no. 5578/ 2021 रामबचन चौधरी बनाम बिहार सरकार एवं अन्य में माननीय उच्च न्यायालय द्वारा पारित आदेश का मामला एक जैसा नहीं है। माननीय उच्च न्यायालय द्वारा पारित आदेश का अनुपालन में बर्खास्त सिपाही- 537 रामबचन चौधरी को पुनः सेवा में लिया जाना श्रेयष्कर प्रतीत नहीं होता है। "

12. The aforesaid order dated 20.06.2021 was subsequently challenged by the appellant in CW.J.C. No. 1746 of 2022, which came to be dismissed by the learned Single Judge vide order dated 02.12.2022.

13. While adjudicating the writ petition, the learned Single Judge examined whether the authority had complied with the directions issued in the earlier round of litigation and whether the decision-making process suffered from any infirmity. In this context, the learned Writ Court observed as follows:

"5. It is, thus, apparent that the matter was remitted for consideration on the ground of quantum of punishment and specifically with



reference to the prior conduct of the petitioner whether he has been charged of any such offence and other such issues. Having considered the issue of quantum of punishment being disproportionate, the Superintendent of Police, Supaul has again passed an order on 20-06-2021, wherein, he has considered the fact that the petitioner has earlier also been found to be guilty of certain lapses which have been taken note of. Paragraph Nos. 3 and 4 of the order, which reads as follows:-

"3 बक्सर जिला में बुनियादी प्रशिक्षण समाप्ति पश्चात् दिनांक-22.12.14 को 05 (पाँच) दिनों का अनुमति अवकाश पैतृक जिला सुपौल में योगदान करने हेतु आदेश पत्र निर्गत किया गया था। अवकाश उपभोग कर दिनांक 28.12.2014 को योगदान पुलिस केन्द्र सुपौल में करना था, परन्तु दिनांक -02.01.2015 के अपराहण में 06 (छः) दिन पिछड़ कर किए । उक्त बरती गयी लापरवाही के लिए "काम नहीं तो वेतन नहीं " के आधार पर 06 (छः) दिनों का वेतन भत्ता जप्त करते हुए उक्त अवधि को असाधारण अवकाश में समायोजित किया गया है। सुपौल जिलादेश स०-37/2015 है।

4. थानाध्यक्ष, सुपौल का ज्ञापांक 4064 दिनांक- 14.08.2019 के आलोक में गार्ड प्रभारी शोहित यादव द्वारा समर्पित आवेदन में उल्लेख किये हैं कि सिपाही -537 रामबचन चौधरी दिनांक-13.08.2019 से फरार है। तथा इनका बराबर का ये रवैया है। जो इनके कर्तव्यहीनता / स्वेच्छा चरित्र , एक अच्छे पुलिस कर्मी नहीं होने का आरोप है । गार्ड से फरार रहने के आरोप में दिनांक-13.08.2019 के प्रभाव से सामान्य जीवन यापन भत्ता पर निलंबित करते हुए उनके विरुद्ध



विभागीय कार्यवाही प्रारंभ किया गया है तथा निलंबन अवधि में इनका मुख्यालय पुलिस केन्द्र सुपौल होंगे। सुपौल जिलादेश सं०-1009/2019 (वि०जाचस०- 83/19 प्रारम्भ) है। भविष्य में अपचारी अपना सेवा में दोबारा आते हैं तो इस विभागीय कार्यवाही को पुन संचालित कर निर्णय लिया जाएगा। "

14. Learned counsel for the appellant submits that the authority had not complied with the direction issued by the learned Writ Court, and did not consider the case of **Jawahar Kumar Singh (supra)**, while passing the order dated 20.06.2021. Learned counsel further submits that certain additional findings were added in the said order which were not relevant.

15. Learned counsel for the State submits that the learned Single Judge had rightly passed the impugned order, after considering relevant facts and material on record. As such, the order of the learned Single Judge warrants no interference.

16. Having heard learned counsel for the parties and upon perusal of the materials available on record, it is evident that pursuant to the direction issued in the earlier round of litigation, the competent authority has reconsidered the case of the appellant and has passed a detailed and reasoned order dated 20.06.2021.

17. From the said order, it transpires that the authority



has undertaken a comparative analysis of the case of the appellant with that of **Jawahar Kumar Singh (supra)** and has recorded specific findings to the effect that the two cases are distinguishable on facts. The authority has also taken into consideration the conduct of the appellant, including his involvement in a criminal case and prior instances of indiscipline, while arriving at its conclusion. The conduct of the appellant would be a relevant consideration for any departmental proceeding against him.

18. It further appears that the learned Single Judge, while examining the challenge to the aforesaid order, has taken note of the limited scope of remand and has confined the scrutiny to whether the authority had complied with the directions issued by this Court and whether the decision-making process suffered from any infirmity. Upon such consideration, the learned Single Judge found that the authority had duly applied its mind and had passed a reasoned order.

19. In view of the aforesaid, this Court proceeds to examine the matter within the limited scope of interference available in an intra-court appeal.

20. It is well settled that in exercise of jurisdiction under Letters Patent, this Court does not sit as a court of appeal



over findings of fact unless the same are shown to be perverse or based on no evidence. At this juncture, it is pertinent to take note of the judgement rendered by the Hon'ble Supreme Court while deciding the case of ***Umabai v. Nilkanth Dhondiba Chavan*** reported in ***(2005) 6 SCC 243***, wherein following observation was made:

“52. It may be, as has been held in Asha Devi [(1974) 2 SCC 492] that the power of the appellate court in intra-court appeal is not exactly the same as contained in Section 100 of the Code of Civil Procedure but it is also well known that entertainment of a letters patent appeal is discretionary and normally the Division Bench would not, unless there exist cogent reasons, differ from a finding of fact arrived at by the learned Single Judge. Even as noticed hereinbefore, a court of first appeal which is the final court of appeal on fact may have to exercise some amount of restraint.”

21. It is also relevant to take note of the Judgment of the Hon'ble Supreme Court in ***Narendra & Co. (P) Ltd. v. Workmen*** reported in ***(2016) 3 SCC 340***, wherein the following



observation was made:

“5.Be that as it may, in an intra-court appeal, on a finding of fact, unless the Appellate Bench reaches a conclusion that the finding of the Single Bench is perverse, it shall not disturb the same. Merely because another view or a better view is possible, there should be no interference with or disturbance of the order passed by the Single Judge, unless both sides agree for a fairer approach on relief.”

22. In view of the aforesaid discussion and applying the settled principles of law to the facts of the present case, this Court is of the considered opinion that the competent authority has passed a reasoned and well-considered order based on relevant materials, and has rightly distinguished the case of the appellant from that of **Jawahar Kumar Singh (supra)**. The learned Single Judge has, in turn, correctly appreciated these aspects and has justifiably declined to interfere.

23. In view thereof, this Court finds no perversity, illegality, or infirmity in the order passed by the learned Single Judge warranting interference in the present intra-court appeal.

24. Accordingly, the present *intra court* appeal stands



dismissed.

25. Pending application(s), if any, shall also stand
disposed of.

(Sudhir Singh, J)

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(Shailendra Singh, J)

