

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1564 of 2018

Shekhar Prasad Son of Sheo Nath Ram, Resident of village- New Demoria,
Police Station- Anisabad, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, General of Police, Patna Bihar.
3. The Inspector General, Police Head Quarter at Patna, Bihar.
4. The Deputy Inspector General of Police, Tirhut Region, Muzaffarpur.
5. The Superintendent of Police, Samastipur.
6. The Sub-Divisional Police Officer, Rosara, District- Samastipur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Karandeep Kumar
For the Respondent/s : Mr.Sheo Shankar Prasad- SC-8

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 09-01-2023

Heard counsel for the parties.

This writ petition has been filed by the petitioner
for following reliefs:-

“(i) for quashing the office order dated 05.12.2017 as contained in Memo No. 146/341087/P-1 issued under the signature of the respondent no. 2 whereby and whereunder the promotion granted to the petitioner by the order dated 30.08.2017 contained in Memo No. 17/324988/P-1) has been reverted with the finding that he has been suspended with the immediate effect from 28.08.2017 against the Samastipur District Order 1241/2017.

(ii) for quashing the entire departmental proceeding initiated against the petitioner vide Samastipur district order No.



1241 of 2017 dated 28.08.2017 contained in Memo No. 5510/GO issued under the signature of the respondent no. 5 whereby the petitioner has been charged for dereliction of duty.

(iii) for seeking direction upon the respondents not to disturb promotion granted to the petitioner vide office order dated 30.08.2017 contained in Memo No. 17/324988/P-1 passed by the respondent.

(iv) for any other appropriate reliefs for which the petitioner is found entitled either in eye of law as well as on facts and circumstances of the case.”

A very short point has been raised on behalf of the counsel for petitioner that without giving any show-cause or hearing the petitioner, the order dated 30.08.2017 by which the petitioner was promoted to the post of Inspector from Sub-Inspector has been cancelled unilaterally. As such impugned order is in violation of principle of natural justice.

Counsel for State submits that after promotion was granted to the petitioner, the respondents received information vide Memo No. 1112 dated 04.09.2017 from the Deputy Inspector General of Police, Darbhanga that petitioner has been suspended vide Samastipur district Order No. 1241/17-cum-Memo No. 5510 dated 28.08.2017. He further submits that in terms of the policy decision of the Government of Bihar notified in Sankalp, dated 17.12.2003 of the Department of Personnel and Administrative Reforms, Government of Bihar, the petitioner is not eligible for promotion to the rank of Inspector



of Police. He next submits that matter was reviewed at the Police Headquarters, Bihar and it was found that the petitioner is not eligible for the promotion because he was under suspension and therefore, it was decided to cancel the promotion granted to the petitioner vide Memo No. 146/341087/P-1 dated 06.12.2017.

In the present it is not in dispute that the order dated 05.12.2017 has been passed without giving any show-cause or providing any opportunity of hearing to the petitioner which amounts to violation of principle of natural justice. Before passing the impugned order of reversion, the petitioner was required to be heard by the respondents. But in this case, no such hearing was given to the petitioner. No person can be punished unheard.

Having considered the submissions made on behalf of the parties and after careful consideration of materials placed on record, this court deems it fit and proper to set aside the office order dated 05.12.2017 as contained in Memo No. 146/341087/P-1 for the simple reason that the same has been passed without hearing the petitioner. Accordingly, this writ petition is allowed.

The matter is remitted for its consideration in accordance with law after giving proper opportunity of hearing



to the petitioner.

(Prabhat Kumar Singh, J)

vinita/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.01.2023
Transmission Date	19.01.2023

